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PERFORMANCE AUDIT

FORENSIC SCIENCE DIVISION

Department of Justice

This report contains recommendations for changes in the operation and management of the Forensic Science Division. Major recommendations concern:

- Control over evidence
- DUI section operations
- Division administration and management controls

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September 1988

The Legislative Audit Committee
of the Montana Legislature:

This is our performance audit of the Forensic Science Division of the Department of Justice. This report contains recommendations concerning evidence controls and division management controls. Department responses are contained at the end of the report.

We wish to express our appreciation to the staff of the division for their cooperation and assistance.

Respectfully submitted,

Scott A Seacat

Scott A. Seacat
Legislative Auditor

Office of the Legislative Auditor

PERFORMANCE AUDIT REPORT

DEPARTMENT OF JUSTICE

FORENSIC SCIENCE DIVISION

September 1988

Report Number 88P-32

Members of the audit staff involved in this audit were: Dave Gould, manager; Mike Wingard, auditor-in-charge; Maureen Lassey, staff auditor; Kent Rice, staff auditor; and Joe Murray, staff auditor.

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OFFICE OF THE LEGISLATIVE AUDITOR

PERFORMANCE AUDIT OF THE DEPARTMENT OF JUSTICE

FORENSIC SCIENCE DIVISION

Report Summary

A performance audit of the Department of Justice, Forensic Science Division (FSD) was requested by the Legislative Audit Committee. The purpose of the division is provide personnel, facilities, and procedures to determine cause of deaths, analyze specimens submitted by law enforcement personnel, provide reports and oral testimony concerning investigations, and provide forensic science training.

Our audit recommends improvements in administering and providing these services. The following sections summarize the results of our performance audit.

EVIDENCE CONTROLS

Physical and documented control of evidence is necessary for it to have evidentiary value in court. Evidence controls include documentation of transfers of evidence, evidence storage and access, evidence security, methods of transferring evidence to and from submitting agencies, and evidence destruction.

As a part of our review of evidence controls, we reviewed individual case files. Case files contain "chain of custody" documentation and related case notes, graphs and reports.

Evidence Storage

We determined case files were not consistently stored in the designated file area. Initially we were unable to locate 31 case files. When an FSD official performed a count of backlog cases in March of 1988, an additional 10 case files were determined to be missing. Without the case file there is no chain of custody documentation for the case while at the lab. In addition, if an analysis was completed, documentation of the scientists' conclusions may be lost with the file, as well as any copies of the report. Although the division has located and/or reproduced some of the missing files, the division needs to improve controls over case files.

Case File Management

A new case tracking system was implemented by the FSD in January of 1988 to increase control over evidence submitted to the laboratory for analysis. A review of the case tracking forms indicated the forms were not consistently completed. The FSD should put more emphasis on completion of these forms, and management should monitor the system through a review of completed case files to determine its effectiveness.

We found FSD case files do not always reflect the history of a case while in the forensic lab for analysis. It was difficult to tell from some files whether the case had ever been reviewed by the division. We believe inconsistencies in case file contents occurred because there are no standardized case documentation procedures for the forensic lab, and because documentation procedures for scientists in each section of the lab vary considerably.

Evidence Acceptance From Users

Interviews with division officials and forensic lab personnel revealed there are no formal procedures for logging evidence into the FSD, and lab personnel indicated they have not been instructed in proper procedures for evidence acceptance. Formal evidence acceptance procedures would assure uniformity and consistency in the acceptance of evidence.

Evidence Security

Once evidence has been accepted, there are four main evidence storage rooms used to store evidence before and after analysis. There are also storage areas located in each forensic lab section which are used to store evidence during analysis. The FSD has no specific policy requiring storage of all evidence in secure areas. During our review we found 18 case files which improperly contained evidence which had been submitted for testing. When evidence is left in files, the potential exists for loss or inadvertent destruction.

We also noted control over access to evidence storage areas is not adequate. The four main evidence storage rooms should be accessible only to the evidence technician and forensic lab manager, yet on several occassions we observed unaccompanied and unauthorized division personnel inside evidence storage rooms. Although there is no indication missing evidence has caused problems with criminal cases, forensic lab personnel indicate unnecessary time is spent trying to locate evidence which has been improperly placed or recorded. To ensure all evidence is secure, FSD should adopt policies requiring storage of all evidence in evidence areas (except during analysis), restrict authority to store evidence, and limit access to evidence storage rooms.

Evidence Transfer

In addition to the issue of unsecured evidence, we noted improvements could be made in the procedural transfer of evidence between FSD personnel. We found 16 percent of calendar year 1988 cases sampled did not have adequate documentation of internal transfers of evidence. We recommend the division adopt formal procedures to assure all evidence transfers are documented and monitored.

Evidence Return

Currently, all forensic lab sections, except chemistry, return analyzed evidence to submitting agencies themselves. The chemistry section's evidence is returned by the evidence technician. Staff members spend approximately 21 percent of their time performing administrative tasks, which includes packaging and returning evidence. We believe having the evidence technician return all evidence to the submitting agencies would help establish more consistent control over the disposition of evidence. This will also give scientists more time for evidence analysis, and provide for completeness of cases, including documentation of the chain of custody.

Evidence Destruction

During our review of case files and log books we discovered 14 cases where disposition of evidence was noted as "destroyed." We discussed evidence destruction with division personnel and found there is no set policy or procedure regulating destruction of evidence; each person or lab section has a separate procedure. We believe the FSD should develop formal policies regarding evidence destruction.

DRUG STANDARD CONTROLS

Controlled substance comparison standards, or drug standards, are legally controlled drugs which are purchased by the forensic lab and used in analysis for comparison with evidence submitted for testing. Currently, the FSD has no written policies and procedures for inventory control over drug standards. There are no periodic physical inventories taken of the 240 substances used for analytical purposes and the only inventory record of the drug standards is inventory cards which are supposed to document all uses of the drug standards. We could not determine the exact amount of drug standards that should be remaining.

When drug standards are received at the FSD, they are not weighed or reviewed to compare the actual amount received with what is indicated. We believe the division should review all drugs upon receipt. This will help ensure complete usage records of all substances. We also recommend the division perform periodic physical inventories.

The FSD purchases drug standards from licensed suppliers on a special form approved by the Drug Enforcement Administration (DEA). Our review noted the FSD does not complete these order forms according to instructions printed on the reverse side of the form. We recommend the division adopt policy to comply with federal guidelines which detail responsibility and provide security over the controlled substance order forms.

To determine the adequacy of the FSD records regarding usage of drug standards, we compared usage records against a sample of drug standards commonly used in the forensic lab. Our review identified that three of the 11 drugs tested had less amounts than indicated on the inventory cards. We believe the disrepancy in amounts of drug standards indicates a need for formal policy on initial measurement of drugs obtained as well as accurate and complete documentation of all subsequent drug standard usage. We recommend the division adopt usage and monitoring policies for controlled substance comparison standards.

Key Security

We evaluated security measures used over drug standard storage keys and duplicate forensic lab keys. We noted the key used to lock the drug standard storage refrigerator and duplicate keys for other forensic lab locks are kept in the evidence storage room where the drug standards storage refrigerator is located. The keys hang in a key register which always remains open and unlocked. Currently, the FSD has no formal policy or procedures for control over keys.

DUI SECTION OPERATIONS

The DUI laboratory section is responsible for the testing of blood samples and the machines used for breath-testing related to potential violations of "driving while under the influence" statutes. During our review we noted several areas which could be improved with implementation of formal policies and procedures.

Ownership/Maintenance of Intoxilyzers

We examined the ownership and maintenance responsibilities for the Intoxilyzers. Interviews with Department of Justice, FSD, and law enforcement personnel revealed a question concerning who owns and who should maintain the 62 Intoxilyzers purchased with federal grant funds but used by city and county law enforcement agencies. Based upon our review of ownership and subsequent responsibilities, we believe the Department of Justice is the owner of the Intoxilyzers. We also believe the Department of Justice should develop signed user agreements to avoid future problems and adopt formal policy concerning Intoxilyzer maintenance.

Intoxilyzer Training Policies and Procedure

The FSD is responsible for certifying and re-certifying law enforcement personnel wishing to operate the Intoxilyzer breath-testing machines. Our review discovered deficiencies in the currently informal procedures used by DUI section personnel to provide this training. The review indicated DUI section personnel do not have formalized or management-reviewed course formats, outlines, or class handouts for the certification/re-certification training provided. We recommend the division adopt specific policies and procedures regarding the type of training, testing, and record-keeping DUI section personnel should provide for law enforcement personnel.

Quality Assurance of Intoxilyzer Operation

The FSD has neither formal nor consistent procedures for providing assurance of operational quality of Intoxilyzers. We believe there should be a specific emphasis on implementing a quality assurance function which includes scheduled field inspections and enforcement of the submittal of usage reports by the user agencies.

FACILITY SECURITY

We reviewed existing security over division facilities to determine if any deficiencies exist.

Security in Forensic Lab Sections

We do not believe adequate facility security measures are in place at the FSD to limit unauthorized entry. Although the FSD is on the top floor of the building, our review discovered it would be relatively easy for an entry to go unnoticed. Evidence stored in refrigerators and personal lockers, as well as equipment in the forensic lab sections, would be subject to misappropriation and/or vandalism. We recommend the division install additional security over each forensic lab section to protect evidence and equipment.

Morgue Security

The FSD does not require non-employee personnel entering the morgue to be escorted. In addition, although hospital security personnel escort people to the morgue after hours, they do not remain if an autopsy or body examination takes place. Thus, evidence kept in the morgue is being subjected to possible tampering or misappropriation because FSD evidence is not kept separate from other morgue contents. We believe by placing a lock on the morgue cooler and escorting all non-employee personnel, all evidence stored in the morgue will be more secure.

Security Over Visitors

The FSD has an informal policy which requires everyone who is not a full-time employee of the FSD, and who enters the controlled access area, to log their name in a logbook at the front desk upon entrance to and exit from the facility. Everyone who is required to log in is supposed to be escorted while at the FSD. We observed several individuals enter the designated controlled access area of the FSD without logging in and/or without being escorted. Allowing unaccompanied access to the FSD, especially the forensic lab, subjects evidence and equipment to misappropriation and/or vandalism because evidence is left on workbenches during analysis and scientists are not always present during these times. We recommend the division adopt and enforce formal policy which requires all visitors to log in and be controlled while at the FSD.

MEDICAL EXAMINER SYSTEM

The Medical Examiner system consists of three major components. The first component is the state Chief Medical Examiner (CME), who is the administrator of the FSD, assists and consults with law enforcement agencies and coroners in death investigations, and conducts on-going training for death investigators in the state. The second component is the county coroner. Coroners are elected and may be connected to the county sheriff's office. Coroners are responsible for investigating deaths and holding inquests. The third component is the Associate Medical Examiner (AME). AMEs perform autopsies and assist coroners in determining cause of death.

Utilization of Associate Medical Examiners

We compared names of physicians performing autopsies by coroner order to a list of designated AMEs. From January 1, 1985 to December 31, 1987, nine percent of the autopsies performed by coroner order were performed by physicians not designated as AMEs for the state of Montana. Coroner and pathologist interviews indicated physicians not trained in forensic death investigation could overlook, damage, or destroy forensic evidence in the course of an autopsy. To provide assurance of a quality medical examiner system in Montana, the department should seek clarification of laws relating to coroner-ordered autopsies, including giving enforcement authority to the CME. The division should notify coroners that current statutes require use of the CME or a designated AME for all coroner-ordered autopsies.

Coroner and Autopsy Reports

We reviewed the FSD's procedures for monitoring submission of coroner and autopsy reports, which included an examination of 1987 coroner and autopsy files to determine compliance with division and statutory reporting requirements. We found over 60 coroner and autopsy reports are still outstanding for 1985, 1986, and 1987. The statute does not specifically require submission of coroner and autopsy reports to the state CME as suggested by current FSD policy. To effectively achieve proper reporting of coroner and AME activity, we believe the department should seek legislation to clarify types of reports needed from coroners and AMEs.

DIVISION ADMINISTRATION

As discussed throughout this report, division management has not developed an active management system. We believe this management approach has affected division operations because division staff have not been provided a framework within which they can perform effectively. We make recommendations which suggest a need for the FSD to develop and implement formal policies and procedures concerning division activities. We believe development of policies and procedures manuals detailing the division's management "stance" on operational and analytical activities would provide division personnel and users with more comprehensive information on what the division does and should be doing.

According to department officials the acting CME reviewed FSD operations and made recommendations to the Attorney General for improvements. Under direction of the acting CME and acting Administrator the department began to implement several management and administrative changes to address critical problems at the FSD; however, a decision was made not to develop extensive written standards and procedures prior to employment of a new medical examiner.

CHAPTER I

INTRODUCTION

A performance audit of the Department of Justice, Forensic Science Division (FSD), was requested by the Legislative Audit Committee. The audit was directed at division management, organization and operations, facility and evidence security, controls over computer equipment, and compliance with state laws and regulations.

The objectives of our performance audit were to review:

1. the effectiveness and efficiency of division operations;
2. adequacy of management controls related to division operations; and,
3. division compliance with applicable statutes and rules.

This report discusses topics and recommendations relevant to FSD operations. Chapters III through VII address control areas specific to the operation of the FSD. We believe division operations could be improved with additional management controls. Chapter VIII discusses practices FSD could follow to improve overall management.

SCOPE OF AUDIT

Formal audit work was directed at operations of the FSD for fiscal years 1985-86, 1986-87, and 1987-88, and included observation of activities and evaluation of applicable documents.

As part of our performance audit work, we contacted law enforcement personnel, coroners, county and city attorneys, and pathologists to obtain their opinions of FSD operations. We also contacted other states to identify how their forensic science organizations operate and to compare with Montana's operation.

We examined management controls such as goals and objectives, policies and procedures, and reviewed personnel management procedures. The division is in the process of installing a microcomputer network to track evidence. We audited general controls pertaining to this system.

We utilized the American Society of Crime Laboratory Directors (ASCLD) Guidelines for Forensic Laboratory Management Practices, and the ASCLD Lab Accreditation Manual as part of our review criteria. Although the FSD has no immediate plans for seeking accreditation through ASCLD, the management controls and recommendations suggested by ASCLD would benefit the FSD.

The audit was conducted in accordance with generally accepted governmental performance auditing standards.

COMPLIANCE

As part of our audit we reviewed compliance with state laws, administrative rules, and state policies related to the Forensic Science Division. We generally found the division to be in compliance with state laws; however, several instances of noncompliance were noted during our examination. These noncompliance issues are discussed later in the report. For items we did not specifically test for compliance, nothing came to our attention that would indicate significant instances of noncompliance.

INTERIM MEMORANDUMS

During the audit we asked officials at the Forensic Science Division for written responses to selected audit issues. These areas related to potential report issues and recommendations. In addition, we also issued management memorandums to department officials on issues which were less significant. The issues were:

-- Case Priority Policy - The division currently has informal policies on establishing case priorities. We recommended the division formally adopt the current policies.

-- Documentation of Associate Medical Examiners Qualifications - Prior to April 1988 the division did not document the qualifications of physicians designated as Associate Medical Examiners (AMEs). In April 1988, interested physicians were required to apply for the designation of AME and qualifications were documented. We recommended the division continue the application and review process of AME qualifications.

-- Review of AME Autopsy Fees - Interviews with coroners indicated autopsy fees of AMEs ranged from $400-$1000. The Chief Medical Examiner (CME) has statutory authority to determine reasonable fees for AMEs. We recommended the division review autopsy rates charged by AMEs and impose limits if necessary.

-- Controls over Timesheets - During our review we found not all timesheets were signed by a supervisor. We recommended the division ensure all timesheets are reviewed and signed by a supervisor.

-- Definition and Review of Backlog Cases - During our review we found the division's record keeping made it difficult to determine the exact number of backlog cases and there was no distinct definition of backlog. We recommended the division implement procedures for tracking backlog and develop a definition of backlog.

-- Fees for Court Appearances - The division has no formal policy on when user agencies will be assessed court appearance fees. We recommended the division implement a formal policy on assessment of fees for court appearances.

CHAPTER II

BACKGROUND

This chapter provides an overview of the Forensic Science Division (FSD) of the Department of Justice. The FSD includes the Laboratory of Criminalistics (forensic lab) and State Medical Examiner's office. Both the forensic lab and the Medical Examiner's office are administered by the State Chief Medical Examiner (CME) who must, by law, be a board-certified Forensic Pathologist. From April 1987, through July 1988, the CME position was vacant. An acting administrator and acting medical examiner shared responsibility for administration of the FSD during the time the CME position was vacant.

DIVISION HISTORY

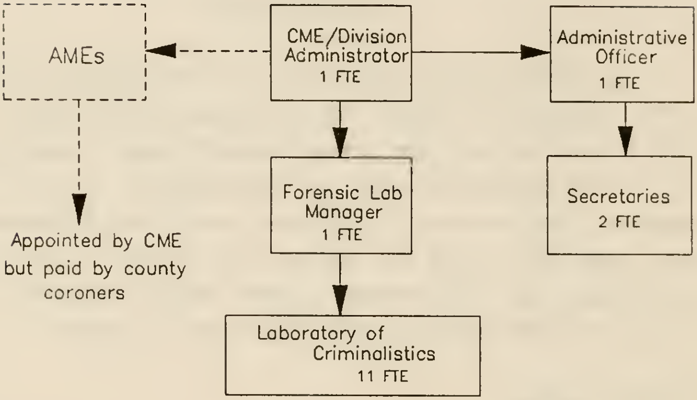
The FSD was created by the Forensic Science Act, Chapter 530, Laws of 1977. This act created a temporary Forensic Science Board. The board was responsible for establishing the FSD, promulgating rules and regulations for operation of the division, and hiring a state CME. The FSD is to provide coroners and pathologists access to a forensic pathologist for consultation, and to provide a state forensic lab for Montana law enforcement officers to reduce out-of-state evidence analysis time.

DIVISION DESCRIPTION AND ORGANIZATION

The purpose of the division is to provide personnel, facilities, and procedures to determine cause of deaths, analyze specimens submitted by law enforcement personnel, provide reports and oral testimony concerning investigations, and provide forensic science training.

The following chart illustrates the organization of FSD:

FORENSIC SCIENCE DIVISION ORGANIZATION


AMEs
CME/Division Administrator 1 FTE
Administrative Officer 1 FTE
Forensic Lab Manager 1 FTE
Secretaries 2 FTE
Appointed by CME but paid by county coroners
Laboratory of Criminalistics 11 FTE

Source: Compiled by the Office of the Legislative Auditor from Forensic Science Division records

Illustration 1

Medical Examiner's Office

The Medical Examiner's office helps coroners and pathologists determine cause of death in suspicious, criminal, or sudden deaths. The CME is responsible for designating physicians throughout the state as Associate Medical Examiners (AMEs). AMEs perform autopsies and assist coroners in determining cause of death. The CME provides a 24-hour on-call service to coroners and AMEs to facilitate determination of the need for an autopsy and determination of the cause of death. The CME also provides training in death investigation to law enforcement candidates at the Montana Law Enforcement Academy and to other law enforcement personnel, coroners, AMEs and county attorneys.

Laboratory of Criminalistics

The Laboratory of Criminalistics (forensic lab) analyzes evidence for law enforcement in criminal cases and for coroners in death investigations. Forensic lab personnel furnish expert testimony in court relating to testing performed. The personnel also provide training to law enforcement candidates at the Law Enforcement Academy. This training includes evidence collection and preservation techniques.

The forensic lab is divided into sections relating to type of testing performed. The following is a brief description of each section:

1. Chemistry--analyzes substances confiscated in criminal cases to determine if illegal drugs are present, and identifies accelerants in arson cases.

2. Serology--identifies and types blood, body fluids and stains in homicide, assault and sexual assault cases.

3. Toxicology--analyzes blood, body fluids and body tissues for drugs, poisons and toxic substances in coroner cases, and confirms results of urine screens for the Department of Institutions.

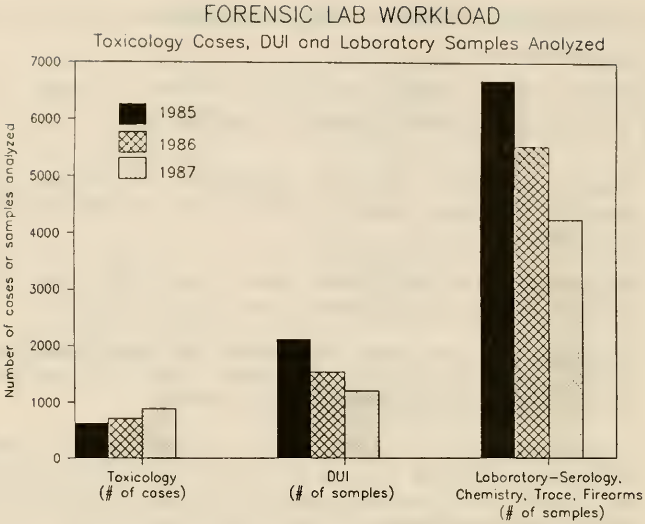
4. Firearms/Toolmarks--compares bullets, cartridge casings, knives, guns and other weapons to confirm or eliminate use of a specific weapon in a crime, and examines toolmarks, shoe and tire prints for comparison and physical match.

5. DUI (Driving Under the Influence)--analyzes blood samples for alcohol content; installs, maintains and certifies breath testing equipment throughout the state, and trains and certifies all law enforcement personnel on breath testing equipment.

6. Trace Evidence--compares and examines hair, fiber and other trace evidence.

The forensic lab also employs an evidence technician. The technician is responsible for receiving, recording, storing and transferring submitted evidence. The evidence technician assists in maintaining security, controls access to evidence rooms, and serves as morgue assistant.

The following chart represents workload for the past three calendar years for the forensic lab. DUI and laboratory workload totals are represented by total samples analyzed. Toxicology workload is measured by number of cases analyzed. The majority of the decrease in laboratory samples analyzed can be attributed to a decrease in testing of trace evidence.



Source: Compiled by the Office of the Legislative Auditor from FSD records

Illustration 2

Preliminary interviews with FSD officials indicated one of their ongoing operational problems was the inability to "catch up" with evidence submitted by user agencies for laboratory testing. We reviewed all pending and overdue (backlog) cases to determine the exact number of backlog cases present at the division. At the beginning of the audit, there was no distinct definition of backlog, and the forensic lab's record-keeping made it difficult to determine the exact number of backlog cases.

During our audit the division also reviewed all backlog cases and contacted submitting agencies to determine if analysis was still necessary. The division found many cases no longer needed analysis and reduced the number of cases in backlog significantly. In addition, the division defined backlog as any case for which analysis has not been completed by the date designated by the lab manager. We believe the division's record-keeping for backlog has improved and backlog cases are now properly defined.

DIVISION FUNDING

The Forensic Science Division is funded by state Special Revenue Fund monies, including revenue from the Motor Vehicle Account and the Alcoholism Treatment Rehabilitation Account. In addition, federal funds are periodically received for special projects. The following chart identifies funding sources and funds expended for the past three fiscal years:

FORENSIC SCIENCE DIVISION
EXPENDITURES
Fiscal Years 1985-86 through 1987-88

Fiscal Year	Type of Funding	Expended
1985-86	State Special	$733,124
	Federal	4,221
	Total	$737,345
1986-87	State Special	$691,441
1987-88	State Special	$756,634
1988-89	State Special**	$772,600

**Appropriated to the FSD.

Source: Compiled by the Office of the Legislative Auditor

Illustration 3

The division is authorized 16 FTE, which includes one FTE the Department of Justice received from a federal drug grant for fiscal years 1987-88 and 1988-89. The federally funded FTE is for drug analysis in the chemistry section of the forensic lab.

OTHER STATES

As part of our review, we contacted 30 forensic laboratories in 23 other states plus three federal and one Canadian lab to gather information on various aspects of their organization and operation. The forensic labs we contacted were associated with state and local police departments, investigation bureaus, health departments, public safety departments, colleges, medical examiners, and federal agencies. We found wide variances in the organization of these forensic labs.

Only one forensic lab we contacted had a state Medical Examiner as the lab director. All other forensic labs were separate from the Medical Examiner office, and over half of the states we contacted did not have a state Medical Examiner. The reporting structures of the forensic labs varied. The majority of forensic labs were under the direction of law enforcement while others were under the direction of the Attorney General, health departments, and colleges. Some labs employed only law enforcement personnel, some employed only civilians, while others employed both law enforcement and civilian personnel.

The sizes of forensic labs varied depending on budgets and type of lab. The majority of forensic labs performed all types of tests, but some labs only performed specific tests. The number of full-time equivalent (FTE) staff members varied proportionately to the budget. Appendix A compares a few operations of Montana's FSD with other forensic labs contacted.

USER COMMENTS

We interviewed various users of the FSD including 24 law enforcement agencies, 21 county and city attorneys, 10 AMEs, and 7 coroners. We asked these groups of individuals questions concerning their involvement with the FSD. In summary, some agencies had problems in specific areas, but the overall consensus concerning FSD operations was positive. A summary of our interviews is presented in Appendix B.

OTHER STUDIES

During the course of our audit the department/division undertook two studies separate from our audit work. In June 1987, the Attorney General directed the Administrator of the Law Enforcement Services Division of the Department of Justice to conduct a study of laboratory operations and submit a report and recommendations by October 1987. We reviewed the report and found some of the recommendations are still relevant to the division's operations; therefore, they are included in this report. In April 1988, the division contracted with consultants to conduct an evaluation of the forensic lab. The resulting report was completed in July 1988.

CHAPTER III

EVIDENCE CONTROLS

Evidence controls are vital to the function of a forensic laboratory. Physical and documented control of evidence is necessary for it to have evidentiary value in court. These controls include documentation of transfers of evidence within the laboratory and outside the laboratory (chain of custody), evidence storage and access controls, evidence security, methods of transferring evidence to and from submitting agencies, and evidence destruction.

This chapter outlines areas for improvement of chain of custody over evidence and our overall analysis of case file management. Throughout this chapter we recommend the establishment of formal policies and procedures to improve operations and management controls

CHAIN OF CUSTODY

The term "chain of custody" describes the documentation which provides a comprehensive, substantiated history of movement of evidence from collection at the crime scene to introduction in a court of law. The documentation of controlled transfer of evidence from law enforcement agencies to the division for analysis and back to the law enforcement agency is a critical aspect of the chain of custody process. Scientific staff must be able to testify in court regarding the chain of custody. The American Society of Crime Laboratory Director's (ASCLD) guidelines state a chain of custody record must be maintained.

We reviewed and observed FSD procedures for monitoring evidence movement from acceptance at the division to disposition. We reviewed case log books and 836 case files dated January 1984 through October of 1987. We verified the location of evidence presumed to be in the possession of the forensic lab by comparing case numbers against a recently-compiled evidence inventory list. This list resulted from a physical inventory completed by FSD staff, and observed by our staff, in December 1987 and January 1988. We also reviewed a random sample of case files from calendar year 1988, because FSD evidence control procedures were changed during the course of our audit work. We verified the location of evidence remaining at the division for the 1988 cases as well. The results of our review are discussed in the following sections.

After the start of our audit work, the division began implementation of a case tracking system. The system is designed to track evidence through the forensic lab and alert management when disposition of evidence is not complete.

If the return or disposition of evidence is not adequately documented, the chain of custody could be damaged or destroyed. Situations existed at the division where it was not possible to consistently tell from the documentation where the evidence was or what happened to it. To guarantee an accurately documented chain of custody, the Forensic Science Division should develop policies and procedures controlling chain of custody documentation and monitor documentation to ensure all evidence is logged-in, transfers within the division are recorded, and disposition of evidence documented. The following sections address specific division practices in managing the chain of custody and case file management.

CASE FILE MANAGEMENT

As a part of our review of evidence controls, we reviewed individual case files. Case files contain chain of custody documentation and related case notes, graphs and reports.

Case File Controls

We determined case files were not consistently stored in the designated file area at the division. We found completed case files in several locations including scientists' work benches and in evidence rooms. We also noted anthropology cases (bones) were logged in the case log book but no case file was ever developed.

Initially, we were unable to locate 31 case files. These were cases of all types including bones sent for identification, homicide and attempted homicide cases, rape and sexual assault cases and drug cases. Division staff were notified of missing case files and were asked to provide us with any files in their possession. When an FSD official performed a count of backlog cases in March of 1988, an additional 10 case files were determined to be missing (41 total files missing). Following our initial audit work the division located or reconstructed 26 of the files.

Without the case file there is no chain of custody documentation for the case while at the lab. In addition, if an analysis was completed, documentation of the scientists' conclusions may be lost with the file, as well as any copies of the analysis report.

Although the division has located and/or reproduced some of the missing files, the division could improve controls over case files. The ASCLD guidelines recommend forensic laboratories have clearly written procedures for the storage and disposition of case records and reports. The guidelines also recommend: "case records which support the examiners conclusions must be generated and kept by the laboratory."

FSD files were not consistently stored in a central location, and all division personnel had access to the file room and files. A division draft policy, created but never officially adopted, recommended storage of all files in the secretarial area with access to the files restricted to secretarial personnel.

To ensure control over the distribution and filing of case records, and to assure chain of custody is adequately documented, FSD should develop and maintain a central filing system for all case files. FSD should also adopt a policy restricting file access and distribution to designated employees. Division officials have indicated they are in the process of developing policies establishing a central filing system and restricting access to case files.

RECOMMENDATION #1

WE RECOMMEND THE DIVISION:

A. MAINTAIN A CENTRAL FILING SYSTEM FOR ALL CASE FILES; AND,

B. ADOPT A FORMAL POLICY RESTRICTING CASE FILE ACCESS AND DISTRIBUTION.

Case Tracking Forms

A new case tracking system was implemented by the FSD in January of 1988 to increase control over evidence submitted to the laboratory for analysis. This new system included establishment of a formal policy stating a case tracking form would be in the file for each case, and the form would include all pertinent case information such as case number, submitting agency, scientist assigned the case and documentation of the manager's review of the case report.

A preliminary review of the new case tracking forms indicated the forms were not consistently completed. The division was notified of inconsistencies in May 1988, and subsequently reported all forms were reviewed and completed. In July 1988, we reviewed a random sample of calendar year 1988 cases and found inconsistencies still exist in the use of case tracking forms. Thirty-eight percent of the cases reviewed did not have a fully documented case tracking form. Items such as case number, victim and suspect name, scientist assigned the case and report review were not filled out. Of the 50 cases examined, none of the case tracking forms had the "Date/method evidence returned" category documented, yet in most cases the report was complete and evidence had been returned.

In order for the case tracking forms to achieve their intended purpose, the division must fully complete the case tracking forms. Division officials identified the newness of the system as the cause of inconsistencies, and stated there has been confusion over procedures for completion of the forms.

Because the case tracking system is new and the form, a major component of the system, is not currently used correctly, it is difficult to measure the effectiveness of the system. Due to the problems discussed throughout this chapter it is important for the division to effectively implement the case tracking system. The FSD should put more emphasis on completion of the case tracking forms, and management should monitor the system through a review of completed case files to determine its effectiveness.

RECOMMENDATION #2

WE RECOMMEND THE DIVISION:

A. REQUIRE COMPLETION OF CASE TRACKING FORMS; AND,

B. MONITOR THE CASE TRACKING SYSTEM FOR EFFECTIVENESS.

Contents of Case Files

We found FSD case files do not always adequately reflect the history of a case while in the forensic lab for analysis. Some case files contained no documentation of contact between FSD personnel and the law enforcement agencies relating to the case. Also, for several cases our file review indicated no analysis was performed, yet the evidence had been returned to the submitting agency. The file contained the Request for Physical Evidence Examination form, but there was no documentation explaining why the evidence was returned unanalyzed. It was difficult to tell from some files whether the case had ever been reviewed by the division. In comparison, some files included documentation of contact with law enforcement, lab notes, graphs and work-sheets to support the scientist's conclusions, and final case disposition.

Policies and procedures from forensic labs in other states are specific relating to case file contents. For example, Oregon's forensic lab procedures manual indicated notes relating to casework "should be of sufficient detail that any supervisor could review the notes and arrive at the same conclusions as stated in the formal report." The ASCLD guidelines suggest forensic laboratories retain all case notes, work-sheets and graphs generated in the case file to support the scientist's conclusions. In addition, section 44-3-214, MCA, requires the division maintain copies of all records and detailed findings of laboratory investigations.

We believe inconsistencies in case file contents occurred because there are no standardized case documentation procedures for the forensic lab, and because documentation procedures for scientists in each section of the forensic lab vary considerably. Division officials explained the reason there are no standard case documentation requirements is because forensic lab sections differ in documentation requirements. Although we agree the lab sections have different documentation requirements, the division should require adequate documentation to ensure a qualified person could review the file and arrive at the same conclusions as the scientist performing the analysis. FSD procedures for the new case tracking system include a review of each completed case file;

therefore, the division could monitor compliance with a case documentation policy through this new system.

To ensure case file contents adequately support the scientists' conclusions, FSD should adopt a case documentation procedure and monitor completed case files to ensure documentation is complete.

RECOMMENDATION #3

WE RECOMMEND THE DIVISION:

A. ADOPT CASE DOCUMENTATION PROCEDURES; AND,

B. MONITOR CASE FILES FOR COMPLETE DOCUMENTATION.

EVIDENCE ACCEPTANCE FROM USERS

Typically, when evidence is received at the FSD from user agencies, the evidence technician "logs" the evidence into a logbook and documents the receipt on the "Request for Physical Evidence Examination" form which is submitted with evidence by user agencies. The "request" form documents the case history and chain of custody of the evidence. During our review of evidence acceptance, we noted some logbook entries and request for examination forms were incomplete or inconsistent. As a result, the chain of custody documentation was incomplete and it was not always possible to determine evidence location and/or who in the forensic lab had possession of the evidence.

Interviews with division officials and forensic lab personnel revealed there are no formal procedures for logging evidence into the FSD, and forensic lab personnel indicated they have not been instructed in proper procedures for evidence acceptance. The evidence technician's job description states the technician is responsible for receiving, recording and storing evidence to establish the chain of custody. Forensic lab personnel other than the evidence technician often log evidence into the forensic lab.

We believe the evidence technician should be the only person allowed to log evidence in, and if the technician is not present, only the forensic lab manager or an authorized replacement should conduct evidence log-ins. Formal evidence acceptance procedures would help assure uniformity and consistency in the acceptance of evidence.

RECOMMENDATION #4

WE RECOMMEND THE DIVISION:

A. ADOPT FORMAL POLICY WHICH DEFINES EVIDENCE ACCEPTANCE AUTHORITY; AND,

B. FULLY DOCUMENT EVIDENCE ACCEPTANCE.

EVIDENCE STORAGE

Storage Areas

Once evidence has been accepted, there are four main evidence storage rooms used to store evidence before and after analysis. There are also storage areas located in each forensic lab section which are used to store evidence during analysis. Storage areas in the forensic lab sections are either a lockable room or a refrigerator, depending on type of evidence analyzed by the section. Forensic lab personnel indicate the only evidence storage procedure they follow is to store certain types of cases in certain storage areas. The main evidence storage rooms and one evidence storage refrigerator have location diagrams which are supposed to give the exact location of evidence stored inside the room or refrigerator. During our review we noted these location diagrams are completed inconsistently and are not always accurate. In addition, the scientists do not always store other, non-refrigerated types of evidence in locked areas, and in some cases, leave evidence on work benches overnight. Our concern about unsecured evidence is compounded by the readily accessible diagrams denoting evidence locations in the refrigerators and name tags on non-refrigerated evidence, which makes it easier for potential theft and/or destruction. Three of the refrigerators used to store evidence are not locked and are not in the main evidence storage rooms.

ASCLD guidelines state all internal laboratory areas requiring limited or controlled access must have a lock system and all personnel handling evidence must have a secure area available for storage of evidence. If all evidence is adequately secured the division can achieve more effective control over evidence.

Evidence in Files

During our review we found 18 case files containing actual evidence which had been submitted for testing. This included three backlog cases which had not yet been analyzed. The majority of the evidence located in the files was either hair or saliva samples in sealed envelopes. The evidence was for various types of cases such as attempted homicide, rape and assault.

When evidence is left in files, the potential exists for loss or inadvertent destruction of evidence. Although the files are in a locked and alarmed room, the file room is not in the forensic lab area, which has additional security. In addition, secretarial staff have access to case files, but should not have access to actual case evidence. If evidence were stored in a file, and the file turned up missing, the evidence would also be lost.

The FSD has no specific policy requiring storage of all evidence in the evidence rooms. However, interviews with laboratory staff suggested unwritten policy exists requiring storage of all evidence in the evidence rooms or in the scientists' personal lockers. A division official stated evidence may end up in the files when more than one forensic lab section is working on a case. For example, if a scientist working in one section finds evidence which needs analysis in another section, the evidence may be stored in the file. Although in the past division officials have not reviewed completed case files, implementation of the case tracking system will include a review of all completed case files. This review could help assure evidence is not stored in case files.

To ensure all evidence is stored in the evidence rooms and is properly secured, FSD should adopt policy requiring storage of all evidence in the evidence rooms (except during analysis) and enforce policy compliance.

RECOMMENDATION #5

WE RECOMMEND THE DIVISION:

A. ADOPT A FORMAL POLICY REQUIRING EVIDENCE BE KEPT SECURE WHILE NOT UNDER ANALYSIS;

B. PROVIDE SECURE EVIDENCE STORAGE AREAS FOR ALL FORENSIC LAB SECTIONS; AND,

C. ADOPT POLICY REQUIRING STORAGE OF ALL EVIDENCE IN SECURE EVIDENCE AREAS.

EVIDENCE ACCESS AND TRANSFER

We noted control over access to evidence storage areas is not adequate. According to FSD officials and staff, the four main evidence storage rooms should be accessible only to the evidence technician and forensic lab manager, yet on several occasions we observed unaccompanied and unauthorized division personnel inside evidence storage rooms.

The FSD has no formal policies and procedures for evidence storage or access control. One of the effects of inadequate storage procedures and access controls is the inability of the division to locate evidence from several pending cases from 1985-87 which, according to FSD files, should be at the FSD. Physical inventories of several storage areas, taken by the FSD personnel, indicated problems with storage and storage location records as well. Some evidence was not in the location indicated on the diagram and other evidence was not even in the storage room. Although there is no indication missing evidence has caused problems with criminal cases, forensic lab personnel indicate unnecessary time is spent trying to locate evidence which has been improperly placed or recorded.

Furthermore, if unauthorized personnel are allowed access to evidence storage areas, the FSD indirectly subjects evidence to the possibility of loss, contamination, or misappropriation. Again, if evidence was lost or altered in any way, court cases could be affected and the FSD's credibility subsequently damaged.

Because the evidence technician is responsible for acceptance of evidence (as described in the position description), we believe the evidence technician should also be responsible for initial storage of evidence as well as storage after completion of analysis. In addition, only the evidence technician and forensic lab manager should have access to evidence storage areas. We believe standard policies and procedures for storing evidence and controlling access to evidence storage areas should be adopted. This will provide the FSD with proper control over storage of evidence submitted for analysis.

RECOMMENDATION #6

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE A FORMAL POLICY WHICH RESTRICTS AUTHORITY TO STORE EVIDENCE AND LIMITS ACCESS TO EVIDENCE STORAGE AREAS.

Evidence Transfer

In addition to the issue of unsecured evidence, we identified a concern related to the procedural transfer of evidence between FSD personnel. Currently, the evidence technician documents acceptance of most evidence submitted for analysis and stores it in the applicable location. For non-refrigerated items, the evidence is typically stored in an alarmed evidence room. When a scientist is ready to analyze evidence, the evidence technician retrieves the evidence from one of the main storage areas and documents the transfer to the scientist, which provides the necessary chain of custody documentation. For refrigerated items, the evidence is stored, by either the scientists or the evidence technician, in one of the three refrigerators located in the toxicology, DUI, or trace evidence sections. When scientists are ready to analyze this type of evidence, the scientists retrieve the evidence from the refrigerators themselves and complete the analysis. There is no procedure or documentation of chain of custody to show the transfer of evidence from the evidence technician to the scientist or any subsequent evidence disposition. We found sixteen percent (8/50) of calendar year 1988 cases sampled did not adequately document internal transfers of evidence.

Although we found no indication not securing evidence or not having formal documentation for internal evidence transfer caused problems with evidence, undocumented transfers increase the possibility of loss, contamination, or misappropriation.

ASCLD guidelines state the documentation of the chain of custody and the integrity of evidence are primary responsibilities of a forensic lab. We believe the division should adopt formal procedures for the transfer of all evidence. These procedures should address documentation of transfers and monitoring of staff adherence to these procedures.

RECOMMENDATION #7

WE RECOMMEND THE DIVISION ADOPT FORMAL PROCEDURES FOR EVIDENCE TRANSFER.

EVIDENCE RETURN

Currently, all forensic lab sections, except chemistry, return analyzed evidence to submitting agencies themselves. The chemistry section's evidence is returned by the evidence technician. The DUI and toxicology sections do not return submitted evidence samples unless specifically requested. Our review indicated staff members spend approximately 21 percent of their working time performing administrative tasks, which includes packaging and returning evidence. We believe this time could be better spent on scientific analysis.

Additionally, forensic lab policy indicates each return is supposed to be recorded on the Request for Evidence Examination form. However, 19 percent (161/836) of the cases we reviewed did not include documentation of evidence disposition in the case file, even though the physical inventory list indicated the evidence was no longer in the lab. We also noted 6 percent (51/836) of the cases included documentation that evidence was returned to the submitting agency, yet according to the physical inventory there was still evidence for the case in the lab.

Because disposition of some evidence was not properly documented, the files for those cases are incomplete, and the chain of custody is broken. This violates an essential ASCLD guideline on chain of custody: "a chain of custody record must be maintained which provides a comprehensive, documented history of the evidence through each of the avenues of transport over which the laboratory has control." The division does not have formal policies and procedures regarding evidence return, and with varying forensic lab personnel returning evidence, the probability of undocumented evidence disposition increases.

We believe having the evidence technician return all evidence to the submitting agencies, as is done for the chemistry section, would help establish more consistent control over the disposition of evidence. This will also give the scientists more time for evidence analysis, and provide a check for the completeness of cases, including documentation of the chain of custody. We do not believe having the evidence technician return all evidence will significantly add to the existing workload of the evidence technician.

RECOMMENDATION #8

WE RECOMMEND THE DIVISION ADOPT FORMAL POLICY WHICH ASSIGNS AUTHORITY FOR RETURNING EVIDENCE TO THE EVIDENCE TECHNICIAN.

EVIDENCE DESTRUCTION

During our review of case files and log books we discovered 14 cases where disposition of evidence was noted as "destroyed." This does not include the toxicology and DUI sections where all evidence is destroyed after one year.

We discussed evidence destruction with division personnel and found there is no set policy or procedure regulating destruction of evidence; each person or forensic lab section has a separate procedure. Also, there were differences in opinion between management personnel at the FSD concerning destruction of evidence. One person believed no evidence should be destroyed by the division, while another indicated there were cases where destruction of evidence was acceptable. In addition, the FSD does not require a witness to observe destruction of evidence. Without clear policy on evidence destruction, there is potential for inadvertent loss of evidence which could damage criminal cases and the credibility of the FSD.

ASCLD guidelines suggest forensic labs should have clearly written and well-understood procedures for handling and preserving the integrity of evidence. We believe the FSD should adopt policy regarding evidence destruction. Also, a policy requiring a witness to observe destruction of evidence would help assure uniformity of procedures and increase security over evidence.

RECOMMENDATION #9

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE FORMAL POLICY REGARDING EVIDENCE DESTRUCTION.

CHAPTER IV

DRUG STANDARD CONTROLS

Controlled substance comparison standards, or drug standards, are legally controlled drugs (e.g., cocaine, LSD, methamphetamine) which are purchased by the forensic lab and used in analysis for comparison with evidence submitted for testing. Currently, the FSD has no written policies and procedures for security over drug standards.

The forensic lab is required to file for a license with the Drug Enforcement Administration (DEA), in order to obtain and possess legally controlled drug standards. To obtain licensing, the security requirements listed in the Code of Federal Regulations (21 CFR 1301), which include keeping the drug standards under lock and key and having an alarm system, must be followed. DEA officials indicate security over drug standards should be emphasized for anyone handling these types of substances. We believe effective control over the acquisition, dispensation, and inventory of the drug standards must be maintained to ensure the substances are properly used. During our audit we reviewed division practices for security over drug standards and identified the following three areas for improvement:

-- inventory control;

-- discrepancy in drug standard records; and,

-- key security.

INVENTORY CONTROL

The FSD has no formal policies and procedures for inventory control over drug standards. There are no periodic physical inventories taken of the 240 substances used for analytical purposes and the only inventory record of the drug standards are inventory cards which are supposed to document all uses of the drug standards. Inventory cards are sometimes incomplete and/or inaccurate, and do not provide an actual physical measurement of the unused portions of the drug standards. Therefore, we could not compare the exact amounts of drug standards remaining to how much should be there as determined by the initial amount obtained and subsequently used in testing.

In addition, the Code of Federal Regulations (21 CFR 1304), requires inventories of controlled substances to take place every two years. The CFR states each inventory must contain a complete and accurate record of all controlled substances on hand on the date of the inventory. The FSD should adopt formal inventory procedures for inventory control.

To determine the adequacy of the FSD records regarding usage of drug standards, we compared usage records against a sample of drug standards commonly used in the forensic lab. We contacted the DEA to obtain information on their inventory audit testing methodology. The DEA indicated they take a cross section sample of drugs and weigh them when doing an inventory audit.

To test the inventory we observed a division official weigh the 11 most frequently used drugs at the lab. Three of the eleven came up with less amounts than indicated on the inventory cards. One drug was classified as a Schedule I drug, a hallucinogen. The other two drugs were Schedule II drugs, a narcotic and a stimulant. A Schedule I drug has no accepted medical use and has a high potential for abuse. A Schedule II drug has some accepted medical use but also has a high potential for abuse.

Approximately 4 milligrams of the hallucinogen, 16 grams of the narcotic, and 3.5 grams of the stimulant were unaccounted for on the inventory cards. To determine the significance of the amounts, we contacted DEA compliance officers who indicated the amounts were substantial enough to want to find justification for the discrepancy.

It appears the discrepancies resulted from inadequate controls and procedures. We have no reason to believe the drugs were stolen, however the drug standards the forensic lab handles are very dangerous and considered illegal when possessed by unlicensed personnel. We believe the discrepancy in amounts of drug standards indicate a need for formal policy on initial measurements of drugs obtained as well as accurate and complete documentation of all subsequent drug standard usage.

When drug standards are received at the FSD, they are not weighed or accounted for to compare the actual amount received with what is indicated was shipped. If drug quantities are not verified when received, discrepancies cannot be determined or reported. Section 50-32-404(2), MCA, states any difference between the quantity received of any substance regulated as provided in section 50-32-401, MCA, and the quantity shipped must be reported to the Department of Justice within three days of the discovery of the discrepancy. Division officials indicate this part of the regulated substance statute only concerns nine specific controlled substances and would only require the forensic lab to weigh and report drug losses involving these nine drugs. Our review of a division listing of substances in the forensic lab, however, revealed three of the 9 drugs are on hand, thus the FSD should have verified the amount of these drugs upon receipt. We believe the division should verify the amount of all drugs upon receipt, not just the nine drugs specified in the MCAs. This will help ensure complete usage records of all substances.

The division should adopt formal policies and procedures for inventory control over controlled substance comparison standards. The division concurred with our interim recommendation and has determined they will inventory drug standards every year.

RECOMMENDATION #10

WE RECOMMEND THE DIVISION ADOPT FORMAL POLICIES AND PROCEDURES FOR CONTROLLED SUBSTANCES COMPARISON STANDARDS.

ORDER FORMS FOR DRUG STANDARDS

The FSD purchases drug standards from DEA licensed suppliers on a special DEA form. Our review noted the FSD does not complete these order forms according to instructions printed on the reverse side of the form. The order forms, called narcotic blanks by FSD personnel, must be fully and accurately completed before the order will be filled by a licensed supplier. The FSD has no policies and procedures for security over drug standards, and this may be the reason behind the incompleteness of the narcotic blanks and subsequent non-compliance with federal requirements.

According to DEA instructions for completion of narcotic blanks, erroneously completed forms should be voided and kept on file. Division officials, however, indicated erroneously completed forms are voided and thrown away. Additionally, the DEA requires missing forms to be reported so proper precautions can be taken to avoid misuse by unauthorized persons. The forensic lab is not complying with this requirement because the narcotic blanks are kept on a shelf in the evidence storage room where the drug standards refrigerator is located. There are no formal controls limiting access to this room, thus access to the narcotic blanks is not strictly limited. According to DEA instructions, documentation of when and what drugs were received should be indicated on the form and the form retained for at least two years. The forensic lab does not consistently record when or what drugs were received, or retain all narcotic blanks from filled orders.

We believe narcotic blanks should only be available to the forensic lab manager, due to potential for misuse. In addition, the forensic lab manager should personally fill out the entire narcotic blank, to assure uniformity of completion and to decrease possibility of error. Division officials stated in the future, order forms will be kept in a secure location, and all voided forms will be retained. They also indicated they will begin to document all drug receipts on the order forms, and information typed on the order forms will be reviewed by the forensic lab manager before signing.

RECOMMENDATION #11

WE RECOMMEND THE DIVISION ADOPT POLICY TO COMPLY WITH FEDERAL GUIDELINES WHICH DETAIL RESPONSIBILITY AND PROVIDE SECURITY OVER THE CONTROLLED SUBSTANCE ORDER FORMS.

KEY SECURITY

As part of our review we evaluated security measures over drug standard storage keys and duplicate forensic lab keys. We noted the key used to lock the drug standard storage refrigerator and duplicate keys for other forensic lab locks are kept in the evidence storage room where the drug standards storage refrigerator is located. The keys hang in a key register which always remains open and unlocked.

ASCLD guidelines state all keys must be accounted for and their distribution limited. Based on interviews with FSD officials, only the lab manager and evidence technician are to have access to evidence storage rooms. However, we observed unaccompanied and unauthorized personnel inside the evidence storage rooms. This occurred while the forensic lab manager and/or evidence technician were present at the FSD. For this reason, we believe keys are not completely secure and distribution is not limited. In order to establish complete control, the key register should be locked at all times, and access limited to authorized personnel.

Currently, the FSD has no formal policy for control over keys. Based on discussions with DEA officials and review of ASCLD guidelines, total control must be assured because of the importance of submitted evidence and the potential risks associated with drug standards. Adequate control over drug standards could be improved with better control over the present key register system.

RECOMMENDATION #12

WE RECOMMEND THE DIVISION ADOPT FORMAL POLICY WHICH DETAILS RESPONSIBILITY FOR AND CONTROL OF KEY ACCESS TO DRUG STANDARDS.

CHAPTER V

DUI SECTION OPERATIONS

The DUI laboratory section is responsible for the testing of blood samples and the machines used for breath-testing related to potential violations of "driving while under the influence" statutes. Specifically, the lab section analyzes blood samples for alcohol content, maintains and certifies breath-testing equipment throughout the state, and trains and certifies all law enforcement personnel on the breath-testing equipment (Intoxilyzers). We examined the operations and activities of the DUI lab section to determine duties and responsibilities. During our review we noted several areas which could be improved with implementation of formal policies and procedures. The following identifies the areas noted.

OWNERSHIP/MAINTENANCE OF INTOXILYZERS

We examined the ownership and maintenance responsibilities for the Intoxilyzers. Interviews with Department of Justice, FSD, and law enforcement personnel revealed a question concerning who owns and who should maintain the 62 Intoxilyzers purchased with federal grant funds but used by city and county law enforcement agencies.

Current FSD policy requires law enforcement agencies to pay for any machine repairs which must be made at the factory. The policy is based on an October 1986 memorandum from the Attorney General which stated the Department of Justice owns the machines. However, the memorandum also indicated the FSD would no longer pay for repairs to the breath-testing machines because of increasing costs of major repairs and inadequate funding to meet the costs.

The ownership/maintenance concern expressed to us by user agencies and by Department of Justice personnel is: if the state (Department of Justice) owns the machines, should user agencies be responsible for factory repairs? Interviews with law enforcement and lab personnel also revealed confusion with the level of service to be provided by the division and the potential resulting costs to user agencies if factory repairs were required. A division official stated that, due to the uncertainty of ownership and maintenance responsibilities, the FSD paid for factory repairs of one user agency's Intoxilyzer who challenged the Attorney General's memorandum and refused to pay the factory repairs. The FSD did not follow up the Attorney General's memorandum with any formal policies or procedures detailing for either FSD personnel or for user agencies the difference between routine repairs and repairs to be made at the factory. As a result, the level of service to be provided by DUI section personnel is subject to the determination of the individual making the repairs.

Based upon our review of ownership and subsequent responsibilities, we agree the Department of Justice is the owner of the Intoxilyzers. In addition, we believe the FSD can require law enforcement agencies to pay for major factory repairs. We also believe the Department of Justice should develop signed user agreements to avoid future problems and questions concerning ownership and level of maintenance service to be provided by the FSD. The FSD should also adopt a formal policy detailing the types of repairs which can be made at the lab and specify procedures for notifying agencies when factory repairs are necessary.

RECOMMENDATION #13

WE RECOMMEND:

A. THE DEPARTMENT OBTAIN SIGNED USER AGREEMENTS FROM ALL AGENCIES POSSESSING AN INTOXILYZER; AND,

B. THE DIVISION ADOPT AND ENFORCE POLICIES AND PROCEDURES FOR INTOXILYZER MAINTENANCE.

INTOXILYZER TRAINING POLICIES AND PROCEDURE

The FSD is responsible for certifying and re-certifying law enforcement personnel wishing to operate the Intoxilyzer breath-testing machines. Sections 23.4.205 and 206 of the Administrative Rules of Montana state any person administering a breath alcohol test must be certified and subsequently re-certified (every three years) by the FSD. The rule specifies certification can only be obtained by successful completion of a course of study and examination administered by the division.

Our review discovered deficiencies in the currently informal procedures used by DUI section personnel to provide this training. The review indicated DUI section personnel do not have formalized or management-reviewed course formats, outlines, or class handouts for the certification/re-certification training provided. As a result, there is no assurance of the adequacy or consistency of training provided to law enforcement officers.

Although the division is responsible for administering the certification/re-certification training and testing, the division does not maintain adequate records of the officers who are certified and/or who need re-certification. The division's position is that it is up to the individual agencies to keep track of who is certified or needs re-certification. We believe without adequate record-keeping of training services provided, the division is not adequately administering the program. Additionally, without keeping track of past and future training requirements, it is not possible for division management to accurately determine or project staff workload or the training needs of user agencies.

RECOMMENDATION #14

WE RECOMMEND THE DIVISION ADOPT SPECIFIC POLICIES AND PROCEDURES REGARDING THE TYPE OF INTOXILYZER TRAINING, TESTING, AND RECORD-KEEPING DUI SECTION PERSONNEL SHOULD PROVIDE FOR LAW ENFORCEMENT PERSONNEL.

QUALITY ASSURANCE OF INTOXILYZER OPERATION

We evaluated DUI section procedures for assuring the accuracy of the operation of breath-testing equipment (Intoxilyzers) and the subsequent documentation of that quality assurance. Interviews with DUI section personnel and applicable document review revealed quality assurance is to be provided through field inspections of the Intoxilyzers and through review of monthly usage reports submitted by user agencies. Our review indicated the FSD has neither formal nor consistent procedures for providing assurance of operational quality.

Information obtained from interviews with DUI section personnel indicated that ideally, field inspections of the Intoxilyzers should be done at least twice per year. The importance of field inspections is to observe the machine in its actual operating environment and determine user agency operating procedures. The DUI section developed a detailed form to be completed during a field inspection which provides the inspector with considerable knowledge about the machine's accuracy and operational capabilities. We noted, however, that the DUI personnel do not consistently comply with the twice per year standard for field inspections as determined by our review of available completed inspection checklists. In fact, two of the three scientists indicated they were fortunate to do inspections once per year. In addition, one scientist designates machines sent in for repair by the user agencies as a field inspection.

Although there are a number of factors affecting the DUI section personnel's ability to do field inspections including geographical limitations and conflicting court dates, we believe field inspections are an important aspect of quality assurance. The FSD should emphasize the need for field inspections.

In addition to inconsistent field inspections, a review of individual agency and statewide monthly usage reports indicated significant agency non-compliance with administrative rules requiring monthly submittal of usage reports to the division (section 23.4.208, ARM). Usage reports contain comments from the user on machine operations and identify usage levels.

For calendar year 1987, the highest number of usage reports received by the division was 54 in July and the lowest number was 42 in April. With 62 machines under state jurisdiction, the average rate of compliance with the above ARM section ranges from a high of 87 percent to a low of 68 percent. Also, interviews with FSD staff indicated they do not always review the reports submitted. Even if FSD personnel were regularly evaluating the usage reports, they would not be able to consistently assess quality assurance on anywhere from 8 to 20 machines monthly.

Without adequate review of Intoxilyzer operations via field inspections and review of monthly usage reports, the FSD is not kept fully aware of the operational accuracy of the machines. Also, law enforcement personnel cannot be assured the readings they are getting from the machine are accurate. Although we did not find any instances where this has occurred, the potential consequences are that persons being tested with the machines are not being tested accurately and this could have a dramatic effect on whether they are charged with an alcohol-related offense. Additionally, if the FSD cannot demonstrate scheduled quality assurance is occurring when challenged by an attorney, FSD personnel could spend additional and unnecessary time in court defending a machine's accuracy. We believe there should be a specific emphasis on implementing a quality assurance function which includes scheduled field inspections and enforcement of the submittal of usage reports by the user agencies.

RECOMMENDATION #15

WE RECOMMEND THE DIVISION:

A. ADOPT FORMAL POLICIES AND PROCEDURES REGARDING DUI SECTION ACTIVITIES RELATIVE TO QUALITY ASSURANCE FIELD INSPECTIONS; AND,

B. ENFORCE THE ADMINISTRATIVE RULES REGARDING SUBMITTAL OF MONTHLY USAGE REPORTS ON INTOXILYZER USAGE.

CHAPTER VI

FACILITY SECURITY

We reviewed security over division facilities to determine if any deficiencies exist. The FSD has two separate alarm systems. Both alarm systems utilize infrared motion detectors and door contact detectors. There are areas of the division facility that are not covered by an alarm system. We identified the following areas of concern relative to security:

- security in forensic lab sections;
- morgue security; and
- security over visitors.

SECURITY IN FORENSIC LAB SECTIONS

We do not believe adequate facility security measures are in place at the FSD to limit unauthorized entry. Although the FSD is on the top floor of the building, our review discovered it would be relatively easy for an entry to go unnoticed. Evidence stored in refrigerators and personal lockers, as well as equipment in the forensic lab sections, would be subject to misappropriation and/or vandalism.

ASCLD guidelines state it is essential evidence be protected from deleterious change. Also, it is essential for equipment to be working properly so a lab can adequately analyze submitted evidence. An environment similar to that of the FSD should be protected as much as possible. An unauthorized entry could jeopardize the credibility of evidence and the FSD. We believe, because security is very important to the FSD, the alarm system should encompass all areas of the forensic lab to provide alarm protection.

There have been no documented unauthorized entries into the FSD facilities, but the possibility of someone gaining access to the FSD does exist. If an unauthorized entry were made to the forensic lab, and the perpetrator did not move into the alarmed areas and exited the same way he entered, the entry may not be detected. Division officials indicated the existing security system was considered adequate by department officials due to the forensic lab's location in the building and because of funding considerations.

From information obtained from a private security firm we estimated the costs for adding alarm security over each forensic lab section. Our estimate of the cost for adding security over all forensic lab sections at the FSD ranges from $1,715, for detectors tied into the existing system, to $4,768, for detectors combined with a new, more sophisticated control system. We believe adding security is justified for protecting evidence and equipment.

RECOMMENDATION #16

WE RECOMMEND THE DIVISION INSTALL ADDITIONAL SECURITY OVER EACH FORENSIC LAB SECTION TO PROTECT EVIDENCE AND EQUIPMENT.

MORGUE SECURITY

The morgue is located in an unalarmed, controlled access area of the FSD. It is utilized by St. Patrick's Hospital, Missoula County, and the FSD. Missoula County owns the equipment and cooler in the morgue, but the FSD has administrative control over the morgue and establishes all rules. Bodies associated with criminal cases are stored in the cooler, and some of these bodies are being held for examination. During our review we also noted previously analyzed toxicology/DUI evidence submissions are stored in the morgue cooler. This evidence is kept for one year, in case re-analysis is requested. Due to the size of the existing facility, it is not possible to separately store various user submissions; however, bodies under jurisdiction of the FSD and toxicology/DUI samples are evidence and should be treated like other evidence submitted to the FSD in terms of assuring chain of custody and protection from misappropriation.

The FSD does not require non-employee personnel entering the morgue to be escorted. In addition, although hospital security personnel escort people to the morgue after hours, they do not remain if an autopsy or body examination takes place. Thus, evidence kept in the morgue is being subjected to possible tampering or misappropriation because FSD evidence is not kept separate from other morgue contents.

ASCLD guidelines say it is essential to protect evidence from loss, cross transfer and/or contamination. The guidelines also state it is essential to have a secure area for overnight and/or long-term storage of evidence. All evidence submitted to the FSD should be secure; and any evidence stored in the morgue cooler should be protected from tampering or misappropriation.

We believe by placing a lock on the morgue cooler and escorting all non-employee personnel, (which should include requiring hospital security personnel to escort individuals during non-working hours), all evidence stored in the morgue will be more secure.

RECOMMENDATION #17

WE RECOMMEND THE DIVISION:

A. INSTALL A LOCK ON THE MORGUE COOLER; AND,

B. ADOPT FORMAL POLICY TO ESCORT ALL NON-FSD PERSONNEL ENTERING THE MORGUE COOLER FOR THE DURATION OF THEIR BUSINESS.

SECURITY OVER VISITORS

The FSD has an informal policy which requires everyone who is not a full-time employee of the FSD, and who enters the controlled access area, to log their name in a logbook at the front desk upon entrance to and exit from the facility. Everyone who is required to log in is supposed to be escorted while at the FSD. Cleaning personnel are the only exception to this policy. These people have been finger-printed and are bonded, and are only admitted during forensic lab working hours. We observed several individuals enter the designated controlled access area of the FSD without logging in and/or without being escorted. Although some personnel visiting the FSD are directed to log in and are escorted, some are not, which indicates inconsistency in procedures.

Allowing unaccompanied access to the FSD, especially the forensic lab, subjects evidence and equipment to misappropriation and/or vandalism because evidence is left on workbenches during analysis and scientists are not always present during these times. It also subjects confidential file information to unauthorized viewing because files are kept by the scientists during analysis. Although we found no proof of evidence or equipment being misappropriated or vandalized due to unaccompanied visitors at the FSD, the possibility exists.

While we believe FSD personnel are aware of the informal policy for people to log in and out and to be escorted while in the forensic lab, we also believe FSD personnel have become lax in their responsibility to enforce the policy because no problems have occurred in the past. If evidence were to be misappropriated, or equipment vandalized due to lack of policy enforcement, the FSD could be responsible for dismissal of a case and their credibility jeopardized. ASCLD guidelines state there should be a means available to restrict or control internal traffic to enhance security when necessary. We believe security is necessary at all times. We also believe the division should formalize their visitor log-in policy and consistently enforce the security standards developed.

RECOMMENDATION #18

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE FORMAL POLICY WHICH REQUIRES ALL VISITORS TO LOG IN AND BE CONTROLLED WHILE AT THE FSD.

CHAPTER VII

MEDICAL EXAMINER SYSTEM

The Medical Examiner system consists of three major components. The first component is the state Chief Medical Examiner (CME), who must be a board-certified forensic pathologist. The CME is the administrator of the FSD, assists and consults with law enforcement agencies and coroners in death investigations, testifies in court on death investigations, and conducts on-going education and training for death investigators in the state.

The second component is the county coroner. Coroners are elected and may be connected to the county sheriff's office. Coroners must be high-school graduates and must complete a basic coroner course of study provided by the Department of Justice. Coroners are responsible for investigating deaths and holding inquests at the request of the county attorney.

The third component is the Associate Medical Examiner (AME). Section 44-3-212, MCA, gives the CME authority to appoint one or more AMEs "to serve at his pleasure." AMEs perform autopsies and assist coroners in determining cause of death. AME appointments are made to cover each region of the state.

UTILIZATION OF ASSOCIATE MEDICAL EXAMINERS

Currently, AMEs are appointed by the Chief Medical Examiner after a review of applicant physician qualifications and through discussions concerning their interest and willingness to further their knowledge in forensic pathology. We compared names of physicians performing autopsies by coroner order to a list of designated AMEs. From January 1, 1985, through December 31, 1987, 9 percent (110/1245) of autopsies performed by coroner order were performed by physicians not designated as AMEs for the state of Montana.

Section 46-4-103(1), MCA, states, "If in the opinion of the coroner an autopsy is advisable, he shall order one and shall retain a medical examiner to perform it." The term medical examiner was added to statutory language with enactment of Chapter 530, Laws of 1977, which established the office of Chief Medical Examiner.

The statutory language is somewhat confusing because it refers to "a medical examiner" but does not clarify or define the term. Although the statutes (Title 44, chapter 3, part 2, MCA), describe the CME and AMEs, the section of law dealing with coroner-ordered autopsies does not directly reference to the description of medical examiners, nor does it define the term. Based upon our legal interpretation of the statutes, the term "medical examiner" does refer to the state CME or an AME designated by the CME.

Interviews with the acting CME indicated he did not think the FSD had the statutory authority to require coroners to use only designated AMEs for autopsies. There is no statute giving the CME authority to require coroners to use only designated AMEs for autopsies. In addition, there is no statutory penalty for coroners not using AMEs for autopsies.

The purpose of designating AMEs to perform autopsies is to provide a pool of physicians who have an interest and expertise in forensic pathology and are willing to participate in continuing education in death investigation. If coroners do not retain designated AMEs to perform autopsies, they may not be obtaining the most thorough death investigation available. Coroner and pathologist interviews indicated physicians not trained in forensic death investigation could overlook, damage or destroy forensic evidence in the course of an autopsy.

To provide assurance of a quality medical examiner system in Montana, the department should seek clarification of laws relating to coroner-ordered autopsies, including giving enforcement authority to the CME. The division should notify coroners that current statutes require the use of the CME or a designated AME for all coroner-ordered autopsies.

RECOMMENDATION #19

WE RECOMMEND:

A. THE DEPARTMENT OF JUSTICE SEEK LEGISLATION CLARIFYING LAWS RELATED TO CORONER-ORDERED AUTOPSIES; AND,

B. THE DIVISION NOTIFY CORONERS THAT CURRENT STATUTES REQUIRE THE USE OF THE CME OR AN AME FOR ALL CORONER-ORDERED AUTOPSIES.

CORONER AND AUTOPSY REPORTS

Current FSD policy is to have coroners send in reports whenever an autopsy is ordered. We reviewed the FSD's procedures for monitoring submission of coroner and autopsy reports, which included an examination of 1987 coroner and autopsy files to determine if all reports were forwarded to the FSD. Coroners and pathologists are not submitting coroner and autopsy reports to the FSD in a timely or consistent manner. Over 60 coroner and autopsy reports are still outstanding for 1985, 1986, and 1987. Although the FSD maintains a log of reports, and periodically notifies coroners and pathologists of reports not yet submitted, these reports are still outstanding.

Section 46-4-103, MCA, states a full record of autopsy findings shall be made on a form provided by the FSD with the coroner and medical examiner retaining one copy and delivering the other to the county attorney. The statute does not specifically require submission of coroner or autopsy reports to the state CME as suggested by current FSD policy. In contrast, section 44-3-214, MCA, requires the FSD to maintain copies of records and detailed findings of autopsy investigations, but the statutes do not include any references to coroner and autopsy reports or require submittal of reports to the state CME.

Although it is current FSD policy to have coroners send in reports only when an autopsy is ordered, interviews with coroners and the acting CME indicated all coroner reports should be sent in. We found several examples of cases where the coroner did not order an autopsy but sent in a coroner report. The CME reviewed the report and suggested an autopsy to determine actual cause and manner of death because patient history was inconsistent with the perceived cause of death. Through reviewing coroner and autopsy reports, the CME may also identify additional training needs in death investigation for either AMEs or coroners.

According to the acting CME, the purpose of submitting coroner and autopsy reports to the state CME is so he can review each case and use his expertise to determine if the coroner and/or law enforcement personnel should further investigate the case. If copies of reports are not submitted to the CME in a timely manner, the CME cannot review the reports and suggest further investigation.

To effectively achieve proper reporting of coroner and AME activity, we believe the department should seek legislation to clarify types of reports needed from coroners and AMEs.

RECOMMENDATION #20

WE RECOMMEND THE DEPARTMENT OF JUSTICE SEEK LEGISLATION TO CLARIFY REQUIREMENTS REGARDING CORONER AND AME REPORTING TO THE CHIEF MEDICAL EXAMINER.

CHAPTER VIII

DIVISION ADMINISTRATION

Many of our concerns from previous chapters and our discussion in this chapter indicate management control of the division could be improved. Forensic science is a complex and diverse field, which makes management more difficult. Division management has concentrated its efforts only on areas it has established as high priorities. This has resulted in a crisis management approach which improved division operations in some areas but has also neglected others.

The CME/Administrator position was vacant for over 15 months and an acting CME and acting administrator shared responsibility for the position. Acting officials were reluctant to make changes because of uncertainty over when the division would find a new CME/Administrator, and what changes the new CME would want. According to department officials the acting CME reviewed FSD operations and made recommendations to the Attorney General for improvements. Under the direction of the acting CME and acting Administrator the department began to implement several management and administrative changes to address critical problems at the FSD. Although operational changes were made, department officials indicated a decision was made not to develop extensive written standards and procedures prior to employment of a new medical examiner.

As discussed throughout this report, division management has not developed an active management system. We believe this management approach has affected division operations because division staff have not been provided a framework within which they can perform effectively. Interviews with division staff indicated they are frustrated by a lack of leadership and management structure and by the lack of a performance appraisal system. This continued frustration is affecting morale.

The purpose of this chapter is to address management controls and suggest areas for improvement of management practices including:

-- goals and objectives;

-- staff performance monitoring;

-- procedure manuals;

- management information; and,
- EDP controls.

GOALS AND OBJECTIVES

The role of management entails directing the use of limited resources in the most effective and efficient manner to fulfill the statutory purposes of the agency. Setting measurable goals and objectives is the first step in this process. During our review, we found the FSD has no measurable goals and objectives.

Although the division has a goals and objectives statement provided for legislative budgeting purposes, this document does not provide measurable short and long term goals and objectives for the division to achieve in the future. Many division staff members believe there is little direction from either division or department management, are unsure who to turn to with problems, and are uncertain where the division is headed.

During our review we found division management has many informal goals, but these goals have not been formalized into specific categories and do not have specific time frames. For example, the division purchased a computer system to track evidence and monitor case completion. The division could set specific goals for completion of this system and include in the objectives projected dates of completion. Division management could involve both forensic lab and administrative staff in setting goals and objectives. Not only would this improve morale of division staff, but it would increase staff awareness of division activities and provide additional management direction.

Division management indicated goals and objectives were not formulated because the CME position was vacant, and as the administrator of the division, the CME should be involved in setting goals and objectives. Since the CME position has been vacant for over a year and goals and objectives were not formulated during the former CME's administration, we believe the division needs formal and measurable goals and objectives to provide direction for current staff and should periodically evaluate attainment of these goals.

RECOMMENDATION #21

WE RECOMMEND THE DIVISION ESTABLISH AND PERIODICALLY EVALUATE GOALS AND OBJECTIVES.

STAFF PERFORMANCE MONITORING

As part of our review of FSD management controls we found the division does not have an adequate system for monitoring the performance of its personnel. This section outlines two areas for improvement in performance monitoring:

- implementing a performance appraisal system; and,
- monitoring and evaluating staff performance on proficiency tests.

Performance Appraisals

The FSD has no performance appraisal system for either scientific or administrative employees. Personnel files for the scientific staff do not document any type of performance review or review of proficiency tests. It was recommended in an October 1987 interdepartmental division evaluation the FSD develop and implement a performance appraisal system. Although the forensic lab manager drafted performance standards for scientific personnel in April of 1988, these standards have not been finalized or implemented. At present there are no proposed performance standards for administrative personnel.

State policy, Section 2.21.6403, ARM requires a regular performance appraisal of all permanent personnel at least annually. State policy indicates management should:

- develop performance standards, possibly with the help of employees;
- notify employees of their duties, responsibilities and performance standards at the beginning of the appraisal period; and,
- observe performance and communicate with employees the level of performance achieved on each performance standard.

At this time, FSD is not complying with state policy or with the recommendation of the lab evaluation. There is little documentation of reasons for pay increases and promotions. It is difficult to determine how promotion/merit decisions were made, or if promotions/merit increases were withheld based on inadequate performance. Additionally, there is no assurance actual or potential problem areas have been addressed. Through interviews, staff members indicated lack of a performance evaluation system has affected staff morale as there is no formal recognition for a job well done. Division officials indicated a lack of training in performance evaluation methods, and revisions in position descriptions as reasons why an evaluation system has not been developed and implemented. Although state policy requiring performance appraisals has been in effect since 1984, there are division personnel who have been on staff 5 to 10 years who have never had a formal performance appraisal.

We recommend division management put a priority on the development and implementation of a formal performance appraisal system for all staff.

RECOMMENDATION #22

WE RECOMMEND THE DIVISION ADOPT A FORMAL PERFORMANCE APPRAISAL SYSTEM.

Proficiency Tests

Proficiency tests are utilized to evaluate lab analysis procedures and as a method of quality control over lab operations. There are two types of proficiency tests:

1. external--A proficiency test may be designed by a testing service and sent at regular intervals to FSD scientists. A forensic lab participating in a proficiency testing program has the opportunity to examine a variety of physical evidence samples and compare its results against results of other laboratories examining the same samples; and,

2. internal--A proficiency test may be designed and conducted within a forensic lab using techniques such as re-examination, "blind" examination and known standards testing. Blind examination is considered by other state forensic labs as the ideal proficiency test, because the scientist is not aware the sample is a test.

Currently all FSD scientists are performing some external proficiency tests. The division has also used internal proficiency tests for training purposes.

During our review, we found 28 percent of proficiency tests sent by the testing service were either not completed or were not analyzed by the established deadline. Although proficiency testing services cost over $1000 per year for the division, they are not used to effectively monitor and evaluate staff performance, nor are they used as an effective quality control measure for the lab. It appears lab staff review the results, but there is no formal review process whereby division management monitors results for an individual procedure, scientist, or the lab as a whole. In many cases, it is up to staff to assess their own performance on proficiency tests.

Division officials indicated they have not stressed proficiency tests for various reasons. The forensic lab manager indicated he reviews proficiency results, but has not formally tracked performance from test to test or by scientist.

ASCLD guidelines suggest laboratories have a quality control program which includes external and internal proficiency tests. ASCLD considers proficiency testing necessary to establish control over quality of lab analysis and provide for corrective action if necessary. Forensic lab directors in other states stressed the use of proficiency tests to identify training needs and need for corrective action.

Division management cannot be assured of accurate test results without a review of proficiency tests and related procedures. Currently no provision exists for corrective action if lab personnel performance on a proficiency test is not up to standard. Members of the Proficiency Testing Advisory Committee elected by ASCLD stated if a scientist is not performing at an acceptable level, the individual should be pulled off casework and given additional training. In addition, the advisory committee asserted if analysis is inaccurate, there is the possibility of conviction of an innocent person or acquittal of a guilty person.

To establish control over quality of lab analysis and more effectively use funds spent on proficiency tests, FSD management should adopt policy requiring timely completion of all proficiency tests. Management should also initiate consistent management review of test results, and document performance on proficiency tests by each staff member and for the lab as a whole. Additionally, FSD should consider developing an on-going internal proficiency program.

RECOMMENDATION #23

WE RECOMMEND THE DIVISION ADOPT A QUALITY CONTROL POLICY WHICH INCLUDES:

A. REQUIRING TIMELY COMPLETION OF PROFICIENCY TESTS;
B. REVIEWING TEST RESULTS; AND,
C. DOCUMENTING PERFORMANCE ON PROFICIENCY TESTS.

POLICIES AND PROCEDURES MANUALS

Throughout this audit report we make recommendations which suggest a need for the FSD to develop and implement formal policies and procedures concerning division activities. We believe development of policies and procedures manuals detailing the division's management "stance" on operational and analytical activities would provide division personnel and users with more comprehensive information on what the division does and should be doing.

Operational Procedures Manual

Currently, division officials primarily rely on informal policy and verbal direction to control and direct the operations of the division and the staff. Our audit work revealed there are misconceptions and confusion about many of the informal policies and in some instances there are no policies or procedures of any type, formal or informal. A manual which provides specific direction from management concerning how the division or division staff will/should approach various aspects of their job responsibilities would provide management with more operational uniformity and consistency. We believe an operational policy and procedures manual which provides details on such activities as: evidence controls; Intoxilyzer certification/re-certification training and testing; and visitor security would improve management controls.

Analytical Procedures Manual

The FSD does not have a formal analytical procedures manual for the forensic lab. An analytical procedures manual contains written copies of standard technical procedures for each discipline in which a laboratory performs analysis. Although several sections of the forensic lab have compiled standard procedures or literature references which detail procedures used on a regular basis, there is no documented review by the lab manager of the standard procedures being followed. As a result, there is no documented management assurance current lab procedures are generally accepted in the field and supported by technical literature or research.

The forensic lab manager and several scientists indicated each scientist needs flexibility to choose which procedure will work best, and they would prefer not to be restricted to one specific procedure for every case. The forensic lab manager indicated he did not think an analytical procedures manual would get much use, except for training. However, scientific staff indicated they refer to standard procedures on a regular basis.

ASCLD considers formulation of an analytical procedures manual essential for operation of a forensic laboratory. ASCLD suggests laboratories establish procedures to assure:

-- the laboratory maintains written copies of routine technical procedures for each discipline in which analysis is performed;

-- procedures utilized are generally accepted in the field or supported by research data;

-- acceptable procedures are used and materials necessary to conduct procedures are available and used; and,

-- procedures specify appropriate quality controls.

Standard procedures could be formally reviewed for accuracy through proficiency testing, as is presently done for some sections of the forensic lab. Written and approved standard procedures may strengthen the forensic lab's ability to defend evidence testing procedures in court, because documented proof that procedures followed are generally accepted in the field would be readily available. In addition, written procedures would be available for training of new employees.

The forensic lab manager should review and document approval of all written standard analytical procedures, determine need for additional written procedures, and ensure procedures are generally accepted in the field. The manager could include a review of proficiency test results to ascertain the accuracy of accepted procedures. To allow flexibility for scientists in determining which procedure to follow, the manual could include alternative procedures and an introductory paragraph discussing the need for flexibility.

RECOMMENDATION #24

WE RECOMMEND THE DIVISION DEVELOP A FORMAL:

A. OPERATIONAL POLICIES AND PROCEDURES MANUAL; AND,

B. ANALYTICAL PROCEDURES MANUAL.

User Guide

We reviewed the extent of communications with users of division services to determine if the division was providing its clients with adequate formal and specific information on services and capabilities. The FSD presently provides information to users by phone, lectures, training, correspondence, newsletters, and personal contact. The FSD does not have a formal, written document describing its services and capabilities.

ASCLD guidelines state communication is essential for effective operation of a forensic laboratory. The guidelines say all communication should be clear, concise, and simply stated, and an effort should be made to assure that the receiver understands the communication. ASCLD guidelines also indicate it is desirable to have vertical, horizontal, and diagonal channels of communication within and external to the laboratory. These standards can also be applied to the medical examiner system because adequate communication is essential for efficient operations.

Forensic lab personnel indicated, and we observed, that there are some problems with user-submitted evidence including improper packaging of evidence, improper amounts of evidence, incomplete forms, and insufficient case information. These problems are related to general lack of user knowledge about FSD operations. In addition, users call the FSD to get information on all areas of FSD operations including whether or not the forensic lab can analyze a sample, when results will be available, and how and what evidence should be submitted. This form of communication disrupts the efficient flow of FSD operations. The problems with submitted evidence and interruptions for information cost the FSD time, and increases the time to complete analysis.

Interviews with users of the FSD indicated a user guide would be beneficial. Types of information suggested for inclusion in the guide were forensic lab capabilities, evidence collection, preservation and packaging, priorities for cases, what to include on submitted forms, turnaround times, specific forensic lab section information, and ME system information.

The statutory responsibility of the FSD is to provide Montana's criminal justice agencies with a full service forensic laboratory and a statewide system of death investigation. The FSD is to provide on-going and up-to-date training to:

-- to law enforcement agencies in the proper collection, preservation, and submission of physical evidence to the laboratory;

-- to associate medical examiners in conducting forensic autopsies;

-- to coroners in proper death investigation; and

-- to county attorneys in interpreting and effectively utilizing forensic examination results in the courtroom.

The FSD is providing some training in these areas, but communication with users could be more efficient by establishing a guide for FSD operations. The user guide should include, at a minimum, CME and forensic lab services and capabilities, evidence collection, preservation and submission, form completion information, turnaround time frames, and specific forensic lab section information.

FSD administrative officials acknowledge a user guide would be beneficial to FSD operations, but would take time and money to produce. We believe the benefits resulting from the development of a user guide vastly outweigh the costs involved for development. The FSD already has documentation covering some of the areas which should be included in the guide. This written information could be formalized, including necessary additions, and the resulting document distributed to all agencies who use the FSD. We believe the development of a user guide will benefit both users and the FSD by enhancing communication, and will save the FSD time in answering questions.

RECOMMENDATION #25

WE RECOMMEND THE DIVISION DEVELOP A USER GUIDE.

MANAGEMENT INFORMATION

As part of our review of management controls at FSD we found management information is not compiled and monitored in a consistent manner. In order to make knowledgeable and informed decisions, management must have information readily available. Although workload data, daily time logs, and court time logs are prepared by FSD staff, this raw data is not compiled, analyzed, or used in management decision making on a regular basis.

FSD personnel spend approximately 260 hours per year completing daily logs and 148 hours per year compiling workload data, at a cost to the division of approximately $4,500 (based on an average of scientific and administrative salaries). It is not efficient for staff to compile this raw data if management does not assemble and analyze it.

According to division officials, management information has not been compiled because the division has been in transition since the resignation of the former Chief Medical Examiner. In addition, all management information at the division was manual until recently, and was not compiled unless a problem area was pointed out or the information was requested.

Workload data and time logs could provide valuable information if analyzed and used consistently. For example, from daily logs, management could obtain information such as amount of time scientific personnel spend on administrative duties, scientific analysis, court time and other travel. From workload data, FSD management could obtain information on trends in sample analysis. FSD management should compile this data into meaningful and usable information to provide ongoing knowledge of division operations and to furnish comprehensive material on division activities to the Department of Justice, law enforcement personnel and the legislature.

RECOMMENDATION #26

WE RECOMMEND THE DIVISION COMPILE AND UTILIZE MANAGEMENT INFORMATION IN STAFFING AND OPERATIONAL DECISION MAKING.

EDP CONTROLS

During our audit work, we reviewed general controls over microcomputers and related equipment to determine if controls are adequate. General controls are procedures that ensure efficient operation of programs and equipment. These controls cover all aspects of an electronic data processing (EDP) system including design, implementation, security, and use of programs, files, and equipment. Currently, the FSD has no written policies and procedures for control over microcomputers.

The FSD has a unique situation regarding microcomputers. Microcomputers have two separate functions: the administrative function and the analytical function. The two functions differ in usage and in type of equipment.

The Handbook of EDP Auditing says general controls over the design, security, and use of computers, programs, and data files ensure efficient operation, and they ensure proper direction toward goals and objectives. Areas which are important for efficient and effective operation include the following:

-- clearly defined systems;

-- documentation;

-- adequate supervision;

-- backup procedures and recovery plans;

-- secured, protected hardware and software;

-- protection of classified data;

-- testing of applications;

-- immediate review of reports;

-- adequate user control; and

-- disaster recovery plans.

FSD personnel are not adequately informed about proper microcomputer/-equipment usage because of a lack of operating documentation and procedures. Interviews with division personnel indicated they are unfamiliar with proper operation of microcomputers/equipment used in other areas of the FSD. An FSD official has indicated an informal goal for the new evidence tracking system may include installing a microcomputer in all major sections of the lab and possibly in the offices of administrative officials. These elements imply the need for formalized general controls, not only for the new system, but for control over existing equipment. While the new evidence tracking system is just now becoming operational, the FSD should have had formalized policies and procedures for analytical equipment already in place.

ASCLD guidelines state appropriate controls must be specified in the procedures and must be used to promote quality results. General control weaknesses can affect program operation and data and put the system "at risk." No indications were noted of problems due to lack of controls, but the possibilities are numerous. Without proper controls, equipment could be damaged, data could be lost or erroneous, inadequate equipment could be purchased, or security jeopardized. All of these possibilities could result in lost time and/or equipment, increased costs, and could affect the integrity of submitted evidence. Because the FSD is going to rely on microcomputers even more, the need for general controls is increased.

The Information Services Division of the Department of Administration is establishing guidelines for organizational controls which the FSD could use to help develop policies and procedures for effective microcomputer/equipment general controls.

RECOMMENDATION #27

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE FORMAL POLICIES AND PROCEDURES ON MICROCOMPUTER/EQUIPMENT GENERAL CONTROLS.

SUMMARY

When the forensic lab started operation in Montana in 1970, there was one staff member. Additional staff were hired as the need for forensic analysis grew. When the Forensic Science Act was passed in 1977, the forensic lab expanded into the FSD. Although staff size and workload increased through the years, department and division management did not take an active role in developing and implementing management controls.

Management controls were not implemented to provide for measurement of progress toward achievement of goals and objectives and to provide managers with information on program performance by comparing output with established standards. There was little development or implementation of formal policies and procedures. This has affected all aspects of the operation of the division.

Although user comments on forensic lab testing were generally positive, implementation of recommendations in this report should help strengthen management controls and assure consistent and effective operation of the division.

APPENDICES

APPENDIX A

INFORMATION OBTAINED FROM FORENSIC LABORATORIES IN OTHER STATES

Total number of other states labs contacted - 30

CHARACTERISTIC	# OF OTHER STATES LABS WITH CHARACTERISTIC	MONTANA
State Medical Examiner as director over the forensic lab	1	Yes
Expenditure levels:		
<= $ 500,000/year	11	
<= $ 750,000/year	4	Yes
<= $ 1,000,000/year	2	
> $ 1,000,000/year	10	
unknown	3	
Number of FTE staff members:		
<= 5	3	
<= 10	4	
<= 15	6	
<= 20	1	Yes
<= 30	8	
> 30	8	
Monthly salary ranges: Scientific personnel through management -		
$1,250 - $3,000/month	5	Yes
$1,400 - $3,500/month	4	
$1,550 - $4,000/month	5	
$1,700 - $4,500/month	5	
$1,850 - $5,000/month	2	
$2,000 - $5,206/month	1	
unknown	8	
Proficiency tests completed	29	Yes
User guide	14	No
Procedures manual	19	No
In process of implementing	6	No

Source: Compiled by the Office of the Legislative Auditor

APPENDIX B

FSD USER COMMENTS/SUGGESTIONS

Law Enforcement Agencies:

- most perceived the timeliness of the forensic lab as slow;
- no one indicated problems with postponed or dismissed cases due to length of analysis;
- the majority were unsure of the services offered by the FSD;
- all but one stated a user guide would be helpful; and

City/County Attorneys:

- all agreed testimony by FSD scientists is adequate;
- no one indicated problems with court appearances;
- indicated a belief that the FSD is understaffed and/or under funded; and
- thought a user guide would be beneficial.

Coroners:

- all agreed the CME has been helpful;
- most indicated some communication deficiencies;
- all thought a user guide was a good idea; and

Associate Medical Examiners:

- believe the current CME system is adequate;
- an AMEs primary responsibility is performing autopsies;
- their association with the FSD varies widely;
- some are only involved once or twice per year, while another is involved around 100 times per year; and
- the dollar range for costs associated with autopsies is $400.00 to $1,000.00.

In summary, most of the users thought they knew what the services and capabilities of the FSD were, but only one user did not think a user guide would be beneficial. Almost all the users thought the FSD's timeliness of reporting results was slow, but no one indicated associated court problems and only four agencies said they delayed cases because of the FSD. About one third of the users believed timeliness problems were associated with cutbacks and/or staff limitations at the FSD. Some agencies had problems in specific areas, but the overall consensus of FSD operations, from the users we interviewed, was positive.

AGENCY RESPONSE

STATE
OF
MONTANA

ATTORNEY GENERAL
MIKE GREELY

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SEP 0[illegible] 1988
MONTANA LEGISLATIVE
AUDITOR

2 September 1988

Mr. Jim Pellegrini
Deputy Legislative Auditor
Room 135, State Capitol
Helena MT 59620

Dear Jim:

We have reviewed your performance audit report on the Division of Forensic Science. Before responding to the recommendations contained in your report, I would like to take this opportunity to point out that during the period of the audit, the office of medical examiner was vacant and the State had the benefit of the services of Dr. John Pfaff who served as Acting Medical Examiner. Although Dr. Pfaff did not serve as a full-time medical examiner, he gave generously of his time and knowledge. In this capacity Dr. Pfaff made significant contributions to improving the services offered by the Division and made many recommendations for addressing management concerns at the Division. A number of these recommendations were being implemented during the period the performance audit was being conducted.

We offer the following responses to your recommendations:

RECOMMENDATION NO. 1

WE RECOMMEND THE DIVISION:

A. MAINTAIN A CENTRAL FILING SYSTEM FOR ALL CASE FILES; AND

B. ADOPT A FORMAL POLICY RESTRICTING CASE FILE ACCESS AND DISTRIBUTION.

RESPONSE TO RECOMMENDATION NO. 1:

The Division concurs. A system for file maintenance and control is in place and operational. This system consists of a secured and alarmed active case file storage vault with access controlled by the laboratory manager and the evidence section chief.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard

Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 2:

WE RECOMMEND THE DIVISION:

A. REQUIRE COMPLETION OF CASE TRACKING FORMS; AND

B. MONITOR THE CASE TRACKING SYSTEM FOR EFFECTIVENESS.

RESPONSE TO RECOMMENDATION NO. 2:

The Division concurs. The case tracking system initiated in February 1988 is functioning. Requirements for tracking form completion are known to all scientists and are emphasized on a regular basis. The system is monitored daily by the laboratory manager for compliance.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 3:

WE RECOMMEND THE DIVISION:

A. ADOPT CASE DOCUMENTATION PROCEDURES; AND,

B. MONITOR CASE FILES FOR COMPLETE DOCUMENTATION.

RESPONSE TO RECOMMENDATION NO. 3:

The Division concurs. Case documentation procedures and requirements, as well as a monitoring system, are being developed as part of a quality assurance program for the Division. This program will be implemented in the spring of 1989.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION No. 4:

WE RECOMMEND THE DIVISION:

A. ADOPT FORMAL POLICY WHICH DEFINES EVIDENCE ACCEPTANCE AUTHORITY; AND,

B. FULLY DOCUMENT EVIDENCE ACCEPTANCE.

RESPONSE TO RECOMMENDATION NO. 4:

The Division concurs. A system is in place and operational which documents evidence acceptance procedures and restricts acceptance authority to the evidence section chief and laboratory manager or a staff member delegated by the laboratory manager.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 5:

WE RECOMMEND THE DIVISION:

A. ADOPT A FORMAL POLICY REQUIRING THE EVIDENCE BE KEPT SECURE WHILE NOT UNDER ANALYSIS;

B. PROVIDE SECURE EVIDENCE STORAGE AREAS FOR ALL CRIME LAB SECTIONS; AND,

C. ADOPT POLICY REQUIRING STORAGE OF ALL EVIDENCE IN EVIDENCE ROOMS.

RESPONSE TO RECOMMENDATION NO. 5:

The Division concurs. A policy is now in operation requiring that all evidence not currently assigned to an investigating scientist be maintained in a central evidence vault under the control of the chief evidence technician.

Once assigned to a scientist for analysis, the evidence is maintained at the scientist's individual work station until his or her particular phase of the testing is completed. At that point, the evidence is returned to the central evidence vault and into the control of the chief of the evidence section. Secure laboratory section evidence lockers are located at each scientist's work station. Current policy requires evidence be returned to this station work locker at the end of the work day or when active analysis is not under way. This policy is enforced by random walk-throughs by the laboratory manager and/or the medical examiner.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 6:

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE A FORMAL POLICY WHICH RESTRICTS AUTHORITY TO STORE EVIDENCE AND LIMITS ACCESS TO EVIDENCE STORAGE AREAS.

RESPONSE TO RECOMMENDATION NO. 6:

The Division concurs. Present policy restricts evidence storage authority and evidence vault access to the evidence section chief and the laboratory manager or his delegated representative.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 7:

WE RECOMMEND THE DIVISION ADOPT FORMAL PROCEDURES FOR EVIDENCE TRANSFER.

RESPONSE TO RECOMMENDATION NO. 7:

The Division concurs. Once evidence is accepted into the Forensic Laboratory, the standard of practice in the United States does not usually require an intra-laboratory, scientist-to-scientist chain of custody document. The lab area itself is secure, and once entered into analysis, the scientific staff must be free to work as a team on any particular piece of evidence.

Present policy assigns one scientist to a particular piece of evidence and makes that individual responsible for it until returned to the central evidence vaults. Although other team scientists may examine and consult with the responsible scientist, no permanent physical transfer of material from one scientist to the next can occur unless through the evidence section chief. The lab manager and evidence custodian are responsible for monitoring and documenting this system.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 8:

WE RECOMMEND THE DIVISION ADOPT FORMAL POLICY WHICH ASSIGNS AUTHORITY FOR RETURNING EVIDENCE TO THE EVIDENCE TECHNICIAN.

RESPONSE TO RECOMMENDATION NO. 8:

The Division concurs. A policy change is forthcoming which will require all evidence disposition from return to destruction, be done by the evidence control technicians. This policy will be in effect before January 1, 1989.

RECOMMENDATION NO. 9:

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE FORMAL POLICY REGARDING EVIDENCE DESTRUCTION.

RESPONSE TO RECOMMENDATION NO. 9:

The Division concurs. A policy requiring written authorization from the submitting agency before destroying evidence is in place and operational. Further clarification of these policies and procedures will be defined in the coming months.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

DRUG STANDARD SECURITY

RECOMMENDATION NO. 10:

WE RECOMMEND THE DIVISION ADOPT FORMAL POLICIES AND PROCEDURES OVER CONTROLLED SUBSTANCES COMPARISON STANDARDS.

RESPONSE TO RECOMMENDATION NO. 10:

The Division concurs. A policy, modifying the current limited inventory control system for drug standards, will be in place and operational before January 1, 1989. This policy will address usage flow, access and monitoring procedures for the inventory.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 11:

WE RECOMMEND THE DIVISION ADOPT POLICY TO COMPLY WITH FEDERAL GUIDELINES WHICH DETAIL RESPONSIBILITY AND PROVIDE SECURITY OVER CONTROLLED SUBSTANCE ORDER FORMS.

RESPONSE TO RECOMMENDATION NO. 11:

The Division concurs. Procedures and policies to ensure compliance with federal guidelines are now in place and operational. Security measures have been tightened to increase control over the "controlled substance order forms" and communication between federal authorities and our laboratory manager confirmed that we are now in compliance with their guidelines.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 12:

WE RECOMMEND THE DIVISION ADOPT FORMAL POLICY WHICH DETAILS RESPONSIBILITY FOR AND CONTROL OF KEY ACCESS TO DRUG STANDARDS.

RESPONSE TO RECOMMENDATION NO. 12:

The Division concurs. Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 13:

WE RECOMMEND:

A. THE DEPARTMENT OBTAIN SIGNED USER AGREEMENTS FROM ALL AGENCIES POSSESSING AN INTOXILYZER; AND,

B. THE DIVISION ADOPT AND ENFORCE POLICIES AND PROCEDURES FOR INTOXILYZER MAINTENANCE.

RESPONSE TO RECOMMENDATION NO. 13:

The Division concurs. A specific set of policies will be developed and implemented for the DUI section before January 1, 1989. Agreements covering maintenance will be initiated with the user agencies.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 14:

WE RECOMMEND THE DIVISION ADOPT SPECIFIC POLICIES AND PROCEDURES REGARDING THE TYPE OF INTOXILYZER TRAINING, TESTING, AND RECORD-KEEPING DUI SECTION PERSONNEL SHOULD PROVIDE FOR LAW ENFORCEMENT PERSONNEL.

RESPONSE TO RECOMMENDATION NO. 14:

The Division conditionally concurs. With the present workload in the DUI section and the personnel demands inherent in an ongoing program of training, maintenance, and field monitoring of Intoxilyzers, the DUI section is severely understaffed. At present we have one individual working in this area and an opening for a second. With the current workload and the projected increases in demand on this section over the next few years, we have an immediate need for a minimum of three full-time scientists in the DUI section and a probable requirement in the near future of a fourth. This section is not only one of the most visible in the laboratory, but also the one section in highest demand by the law enforcement community in the State of Montana.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 15:

WE RECOMMEND THE DIVISION:

A. ADOPT FORMAL POLICIES AND PROCEDURES REGARDING DUI SECTION ACTIVITIES RELATIVE TO QUALITY ASSURANCE FIELD INSPECTIONS; AND

B. ENFORCE THE ADMINISTRATIVE RULES REGARDING SUBMITTAL OF MONTHLY USAGE REPORTS.

RESPONSE TO RECOMMENDATION NO. 15:

The Division conditionally concurs. As explained in response to recommendation No. 15, the extreme undermanning of the DUI makes it almost impossible at the present time to fulfill all of our obligations to the law enforcement community with regard to intoxilyzer support.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

FACILITY SECURITY

RECOMMENDATION NO. 16:

WE RECOMMEND THE DIVISION INSTALL ADDITIONAL SECURITY OVER EACH CRIME LAB SECTION TO PROTECT EVIDENCE AND EQUIPMENT.

RESPONSE TO RECOMMENDATION NO. 16:

The Division does not concur. Although improvements undoubtedly could be made, the present system is adequate. We are located on the top floor of a patrolled, limited-access building with special Medeco locks and dual alarm systems. Special locking mechanisms are also present to control outside access to fire escape systems. The only access to the roof is from inside the building. After hours, the building is locked and patrolled periodically by security guards. The only access to the Division spaces after hours, without violating the internal security barriers, would be through the sixth floor windows. Present security severely restricts access to the roof which would be the most likely approach an intruder would use to get to the windows. Any attempt to scale the building from the outside would be readily detected because of the exposed nature of all the outside walls. At the present time, the added $4000 to $5000 needed to extend security to the windows would not prove cost effective.

RECOMMENDATION NO. 17:

WE RECOMMEND THE DIVISION:

A. INSTALL A LOCK ON THE MORGUE COOLER; AND,

B. ADOPT FORMAL POLICY TO ESCORT ALL NON-FORENSIC SCIENCE DIVISION PERSONNEL ENTERING THE MORGUE COOLER FOR THE DURATION OF THEIR BUSINESS.

RESPONSE TO RECOMMENDATION NO. 17:

The Division concurs. Because of existing multi-group morgue use agreements, a serious potential flaw in our control and security system does exist. At present, individuals other than Division staff can and do gain access to our morgue area and its refrigerator. This access can be gained without escort by Division personnel. We cannot place this facility behind an alarm barrier or limit its use because of these existing agreements. Our immediate plans are to renegotiate the agreements with the Missoula County Commissioners and St. Patrick's Hospital and to regain total control over this area. Once this is accomplished, we can place the morgue behind a locked and alarmed security barrier which would be totally under our control.

In the interim, all normal duty hours access to the morgue area and its refrigerators will be under the escort of a Division of Forensic Science staff member and all after-hours access under security guard escort from St. Patrick Hospital. An expeditious elimination of this potential weak link is a top priority.

RECOMMENDATION NO. 18:

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE FORMAL POLICY WHICH REQUIRES ALL VISITORS TO LOG IN AND BE CONTROLLED WHILE AT THE FORENSIC SCIENCE DIVISION.

RESPONSE TO RECOMMENDATION NO. 18:

The Division concurs. A policy is now in effect which requires all non-division staff to be admitted through the receptionist area door and to log in and out of the Division spaces. Once logged in, however, an escort is not usually required.

To increase control over this activity, however, a policy will be initiated before January 1, 1989, which provides for:

1. Special visitors badges to be issued to all who log in and are cleared for access by the front desk personnel.

2. Employees/Staff identification badges for all assigned to the Division.

3. Challenge and detention procedures for those found in the Division spaces who are not wearing either a visitor badge or staff badge.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 19:

WE RECOMMEND:

A. THE DEPARTMENT OF JUSTICE SEEK LEGISLATION CLARIFYING LAWS RELATED TO CORONER-ORDERED AUTOPSIES; AND

B. THE DIVISION NOTIFY CORONERS THAT CURRENT STATUTES REQUIRE THE USE OF THE CHIEF MEDICAL EXAMINER OR AN ASSOCIATE MEDICAL EXAMINER FOR ALL CORONER-ORDERED AUTOPSIES.

RESPONSE TO RECOMMENDATION NO. 19:

The Division concurs. A clarification of the statute defining a duly credentialed medical examiner or associate medical examiner as one so certified and appointed by the Office of the Chief Medical Examiner, and requiring all coroners to use such physicians when ordering autopsies, will be introduced in the coming session of the Legislature.

All sitting coroners have been notified of a policy, which will be enforced by the new chief medical examiner, that the Office of the Chief Medical Examiner will not be responsible for, nor review cases submitted, when those cases have been done by a physician not appointed and credentialed by the chief medical examiner.

RECOMMENDATION NO. 20:

WE RECOMMEND THE DEPARTMENT OF JUSTICE SEEK LEGISLATION TO CLARIFY REQUIREMENTS REGARDING CORONER AND ASSOCIATE MEDICAL EXAMINER REPORTING TO THE CHIEF MEDICAL EXAMINER.

RESPONSE TO RECOMMENDATION NO. 20:

The Division concurs. The present statutes do not require timely reporting of cases to the Office of the Chief Medical

Examiner. The potential for critical information to be lost is very high when a case is reported to the chief medical examiner after an autopsy or embalming has already been done. Guidelines will be formulated in the next few months and the legislation sought requiring rapid reporting of death investigations to the Office of the Chief Medical Examiner.

RECOMMENDATION NO. 21:

WE RECOMMEND THE DIVISION ESTABLISH AND PERIODICALLY EVALUATE GOALS AND OBJECTIVES.

RESPONSE TO RECOMMENDATION NO. 21:

The Division concurs. Goals and objectives for the Division and each of its sections are being formulated and will be part of an annual Division administrative review process. Policies defining this process will be in place before January 1, 1989.

Specific procedural guidelines will be defined in the administrative section of the Forensic Sciences Division Policies and Standard operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 22:

WE RECOMMEND THE DIVISION ADOPT A FORMAL PERFORMANCE APPRAISAL SYSTEM.

RESPONSE TO RECOMMENDATION NO. 22:

The Division concurs. A Division policy, in line with existing State policies, defining a personnel performance appraisal system will be in place before January 1, 1989.

Specific procedural guidelines will be defined in the administrative section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 23:

WE RECOMMEND THE DIVISION ADOPT A QUALITY CONTROL POLICY WHICH INCLUDES:

A. REQUIRING TIMELY COMPLETION OF PROFICIENCY TESTS;

B. REVIEWING TEST RESULTS; AND

C. DOCUMENTING PERFORMANCE ON PROFICIENCY TESTS.

RESPONSE TO RECOMMENDATION NO. 23:

The Division concurs. A total product reliability program consists of both a quality control program and a quality assurance program. The quality control program deals with specific technical procedures and compliance whereas a quality assurance program addresses primarily the administrative and management aspects of the system. A program addressing both areas will be initiated in the Division of Forensic Science before mid-1989.

Specific procedural guidelines will be defined in the operations section of the Forensic Science Division Policies and Standard Operating Procedures Manual. This manual is scheduled for completion by January 1, 1989.

RECOMMENDATION NO. 24:

WE RECOMMEND THE DIVISION DEVELOP A FORMAL:

A. OPERATIONAL POLICIES AND PROCEDURES MANUAL; AND

B. ANALYTICAL PROCEDURES MANUAL.

RESPONSE TO RECOMMENDATION NO. 24:

The Division concurs. A specific set of procedures manuals with two sections, one consisting of administrative details and the other operational details, will be completed under the title of Policies and Standard Operating Procedures Manual for the Division of Forensic Science. The scheduled date for completion will be January 1, 1989.

RECOMMENDATION NO. 25:

WE RECOMMEND THE DIVISION DEVELOP A USER GUIDE.

RESPONSE TO RECOMMENDATION NO. 25:

The Division concurs. A policy defining a user's guide (services catalogue) and specifying its structure, contents, and revision schedule will be issued before January 1, 1989. A complete services manual for the Division of Forensic Science will be published and distributed to law enforcement agencies by August 1, 1989.

RECOMMENDATION NO. 26:

WE RECOMMEND THE DIVISION COMPILE AND UTILIZE MANAGEMENT INFORMATION IN STAFFING AND OPERATION DECISION MAKING.

RESPONSE TO RECOMMENDATION NO. 26:

The Division concurs. Workload, work flow, and staff activities data are vital to efficient management and planning in a scientific laboratory. A policy requiring and outlining a monitoring system for such management data will be issued before January 1, 1989. A specific procedural guidelines for such a program will be defined in both the administrative and operational sections of the Forensic Science Division Policies and Standard Operating Procedures Manual. Scheduled completion for this manual is January 1, 1989.

RECOMMENDATION NO. 27:

WE RECOMMEND THE DIVISION ADOPT AND ENFORCE FORMAL POLICIES AND PROCEDURES ON MICROCOMPUTER/EQUIPMENT GENERAL CONTROLS.

RESPONSE TO RECOMMENDATION NO. 27:

The Division concurs. The future efficiency and cost saving measures in the Division will require extensive automation. A section will be created in the Division and defined under a policy directive as "Automation Management Section." Guidelines addressing equipment, software, and systems applications will be defined in the policy structure of this new section.

Very truly yours,

MIKE GREELY
Attorney General